

CHAPTER 10 CONSULTANT SELECTION**CONTENTS**

SECTION/SUBJECT	PAGE NUMBER
10.1 GENERAL	10-1
INTRODUCTION	10-1
ARCHITECTURAL AND ENGINEERING CONSULTANTS.....	10-1
NON-A&E CONSULTANTS	10-2
SELECTING THE PROJECT	10-2
SUBCONTRACTED SERVICES	10-2
ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST	10-2
AUTHORIZATION TO PROCEED	10-4
10.2 IDENTIFYING & DEFINING A NEED FOR CONSULTANTS.....	10-4
APPOINTING THE CONTRACT ADMINISTRATOR	10-4
DETERMINING THE PROJECT SCHEDULE	10-5
SEGMENTING CONSULTANT WORK.....	10-5
SPECIFY PRODUCTS TO BE DELIVERED	10-6
SCOPE OF CONSULTANT WORK	10-6
NON-DISCRIMINATION CLAUSE.....	10-6
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION	10-6
REPORTING DBE COMMITMENTS AND DBE INFORMATION.....	10-7
ESTIMATED COST OF CONSULTANT WORK	10-8
DETERMINE TYPE OF CONTRACT	10-9
DETERMINE METHOD OF PAYMENT.....	10-10
10.3 A&E CONSULTANT AUDIT AND REVIEW PROCESS	10-11
APPLICABLE STANDARDS	10-11
AUDIT GUIDANCE AVAILABLE.....	10-12
CONTRACTS AND CONSULTANTS SELECTED FOR AUDIT OR REVIEW	10-12
SUBCONSULTANT IMPACTS	10-13
COGNIZANT LETTERS OF APPROVAL	10-13
MOST COMMON AUDITS AND REVIEWS TO BE PERFORMED	10-14
OTHER AUDITS AND REVIEWS THAT MAY BE PERFORMED	10-15
CASE 1: PROPOSED A&E CONSULTANT CONTRACTS OF \$150,000 OR MORE.....	10-16
CASE 2: PROPOSED A&E CONSULTANT CONTRACTS OF \$1M OR MORE.....	10-16
CASE 3: PROPOSED A&E CONSULTANT CONTRACTS OF \$3.5M OR MORE.....	10-17
REQUIREMENTS FOR A CONFORMANCE LETTER	10-18
SUMMARY OF CONTRACTS TO BE AUDITED OR REVIEWED.....	10-19
10.4 CONSULTANT SELECTION METHODS	10-21
ONE-STEP RFP.....	10-21
ONE-STEP RFQ	10-21

TWO-STEP (RFQ FOLLOWED BY RFP).....	10-21
10.5 CONSULTANT SELECTION USING THE ONE-STEP RFP METHOD.....	10-25
APPOINT CONSULTANT SELECTION COMMITTEE	10-25
DEVELOP TECHNICAL CRITERIA FOR EVALUATION OF PROPOSALS.....	10-25
DEVELOP SCHEDULE FOR CONSULTANT SELECTION.....	10-25
PREPARE RFP.....	10-25
FINANCIAL MANAGEMENT AND ACCOUNTING SYSTEM REQUIREMENTS	10-26
ADVERTISE FOR CONSULTANTS.....	10-26
ISSUE/PUBLISH RFP.....	10-27
CONDUCT PROPOSER’S CONFERENCE OR ANSWER WRITTEN QUESTIONS	10-27
RECEIVE AND EVALUATE TECHNICAL PROPOSALS	10-27
DEVELOP FINAL RANKING AND NOTIFY CONSULTANTS OF RESULTS.....	10-27
NEGOTIATE CONTRACT WITH TOP-RANKED CONSULTANT	10-28
10.6 CONSULTANT SELECTION USING THE ONE-STEP RFQ METHOD	10-29
APPOINT CONSULTANT SELECTION COMMITTEE	10-29
DEVELOP TECHNICAL CRITERIA FOR EVALUATION OF QUALIFICATIONS	10-29
DEVELOP SCHEDULE FOR CONSULTANT SELECTION.....	10-29
PREPARE RFQ.....	10-29
FINANCIAL MANAGEMENT AND ACCOUNTING SYSTEM REQUIREMENTS	10-30
ADVERTISE FOR CONSULTANTS.....	10-30
ISSUE/PUBLISH RFQ	10-31
RECEIVE/EVALUATE STATEMENTS OF QUALIFICATIONS AND DEVELOP SHORT LIST	10-31
NOTIFY CONSULTANTS OF SHORT LIST.....	10-31
INTERVIEW TOP-RANKED CONSULTANTS	10-32
DEVELOP FINAL RANKING AND NOTIFY CONSULTANTS OF RESULTS.....	10-32
CONDUCT SCOPING MEETING.....	10-33
REQUEST COST PROPOSAL.....	10-33
NEGOTIATE CONTRACT WITH TOP-RANKED CONSULTANT.....	10-33
10.7 CONSULTANT SELECTION USING THE TWO-STEP RFQ/RFP METHOD	10-34
COMBINED RFQ AND RFP	10-34
10.8 COMPLETING THE PROJECT.....	10-35
DEVELOP THE FINAL CONTRACT	10-35
REVIEW AND APPROVAL OF CONTRACTS	10-35
RETENTION CLAUSES	10-36
REVIEW OF LOCAL AGENCY ACTIONS.....	10-36
EXECUTE CONTRACT AND ISSUE NOTICE TO PROCEED TO CONSULTANT	10-36
ADMINISTER THE CONTRACT.....	10-37
SUBSTITUTION OF CONSULTANT PERSONNEL AND SUBCONSULTANTS.....	10-37
INVOICING (OR PROGRESS PAYMENTS).....	10-37
CONTRACT AMENDMENTS	10-38
PERFORMANCE EVALUATION	10-39

PROJECT RECORDS	10-39
10.9 MISCELLANEOUS CONSIDERATIONS	10-40
ENGINEERING SERVICES UNDER \$150,000.....	10-40
NONCOMPETITIVE NEGOTIATED CONTRACTS (SOLE-SOURCE)	10-41
PERSONAL SERVICES CONTRACTS	10-42
RETAINING A CONSULTANT AS AN AGENCY ENGINEER OR IN MANAGEMENT ROLE.....	10-42
CONSTRUCTION ENGINEERING SERVICES	10-44
10.10 REFERENCES	10-44

FIGURES

FIGURE/DESCRIPTION	PAGE NUMBER
FIGURE 10-1 A&E CONTRACT PROCUREMENT PROCESS WORKFLOW DIAGRAM	v
FIGURE 10-2 SEGMENTING CONSULTANT WORK	10-6
FIGURE 10-3 A&E CONSULTANT AUDIT AND REVIEW PROCESS.....	10-20
FIGURE 10-4 CONSULTANT SELECTION FLOWCHART	10-23

EXHIBITS

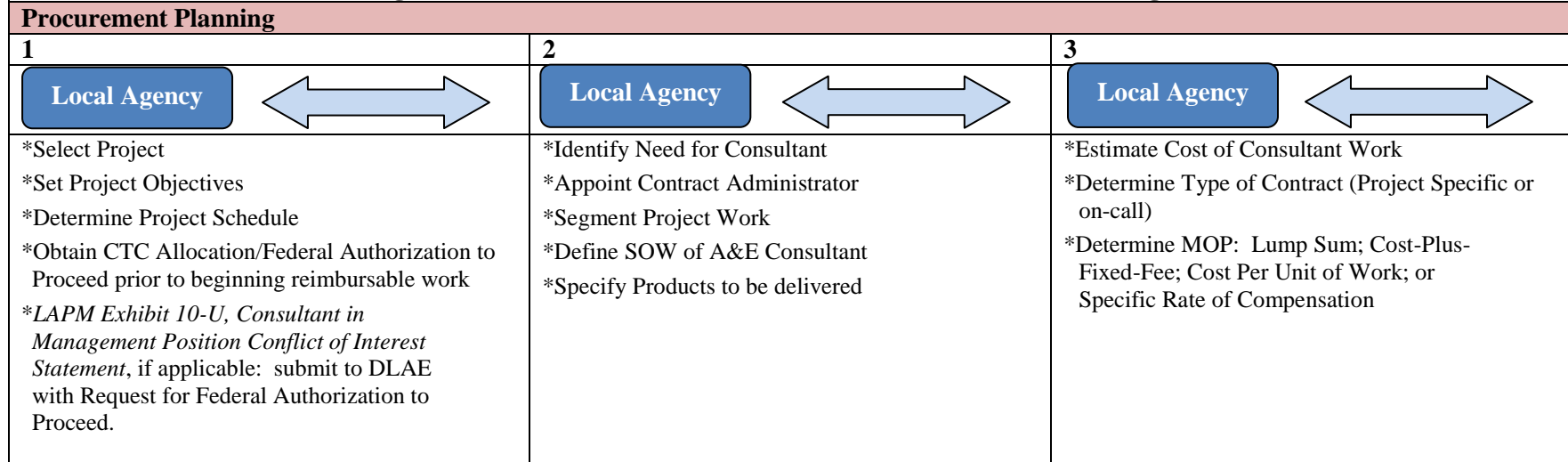
EXHIBIT/DESCRIPTION

- [EXHIBIT 10-A: A&E CONSULTANT AUDIT REQUEST LETTER AND CHECKLIST](#)
- [EXHIBIT 10-B: SUGGESTED CONSULTANT EVALUATION SHEET](#)
- [EXHIBIT 10-C: CONSULTANT CONTRACT REVIEWERS CHECKLIST](#)
- Exhibit 10-D: Consultant Contract Outline (deleted w/this LPP 15-01)
- Exhibit 10-E: Sample Payment Clauses (deleted w/this LPP 15-01)
- Exhibit 10-F: Certification of Consultant, Commission & Fees (deleted w/this LPP 15-01)
- Exhibit 10-G: Certification of Local Agency (deleted w/LPP 13-01)
- [EXHIBIT 10-H: SAMPLE COST PROPOSAL \(EXAMPLE #1 THRU #3\)](#)
- [EXHIBIT 10-I: NOTICE TO PROPOSERS DBE INFORMATION](#)
- Exhibit 10-J: Standard Contract Provisions for Sub Consultant/DBE PARTICIPATION (deleted w/this LPP 14-02)
- [EXHIBIT 10-K: CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL MANAGEMENT SYSTEM](#)
- Exhibit 10-L: Local Agency Certification of Cost Analysis (deleted w/this LPP 15-01)
- Exhibit 10-M: Standard Audit Program Procedures (deleted w/LPP 12-03)
- Exhibit 10-N: Accounting & Auditing Guidelines for Contracts with Caltrans (deleted w/LPP 12-03)
- [EXHIBIT 10-O1: CONSULTANT PROPOSAL DBE COMMITMENT](#)
- [EXHIBIT 10-O2: CONSULTANT CONTRACT DBE INFORMATION](#)

- Exhibit 10-P: Non Lobbying Certification for Federal Aid Contracts (deleted w/this LPP 15-01)
- [EXHIBIT 10-Q: DISCLOSURE OF LOBBYING ACTIVITIES](#)
- [EXHIBIT 10-R: A&E SAMPLE CONTRACT LANGUAGE](#)
- [EXHIBIT 10-S: CONSULTANT PERFORMANCE EVALUATION](#)
- [EXHIBIT 10-T: PANEL MEMBER CONFLICT OF INTEREST & CONFIDENTIALITY STATEMENT](#)
- [EXHIBIT 10-U: CONSULTANT IN MANAGEMENT POSITION CONFLICT OF INTEREST & CONFIDENTIALITY STATEMENT](#)
- Exhibit 10-V: Non Discrimination Clause (deleted w/this LPP 15-01)

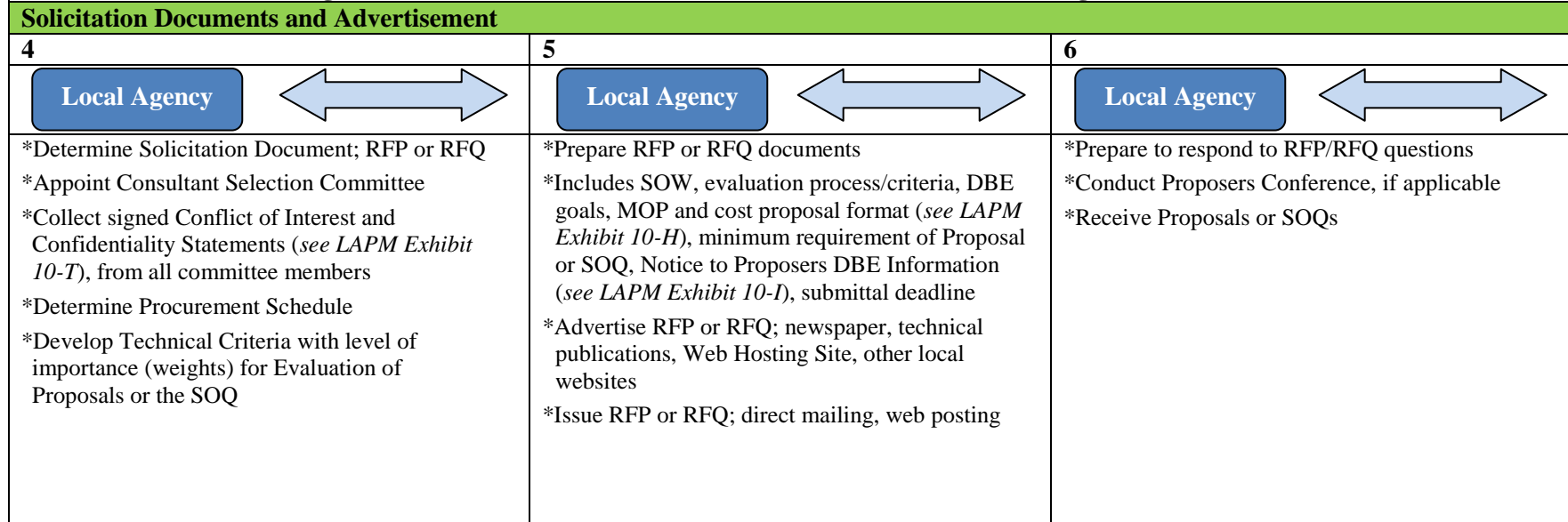
NOTE: Unless stated otherwise, all references to Exhibits in this Chapter refer to the Local Assistance Procedures Manual (LAPM) Exhibits located at:

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/lapmforms.htm>

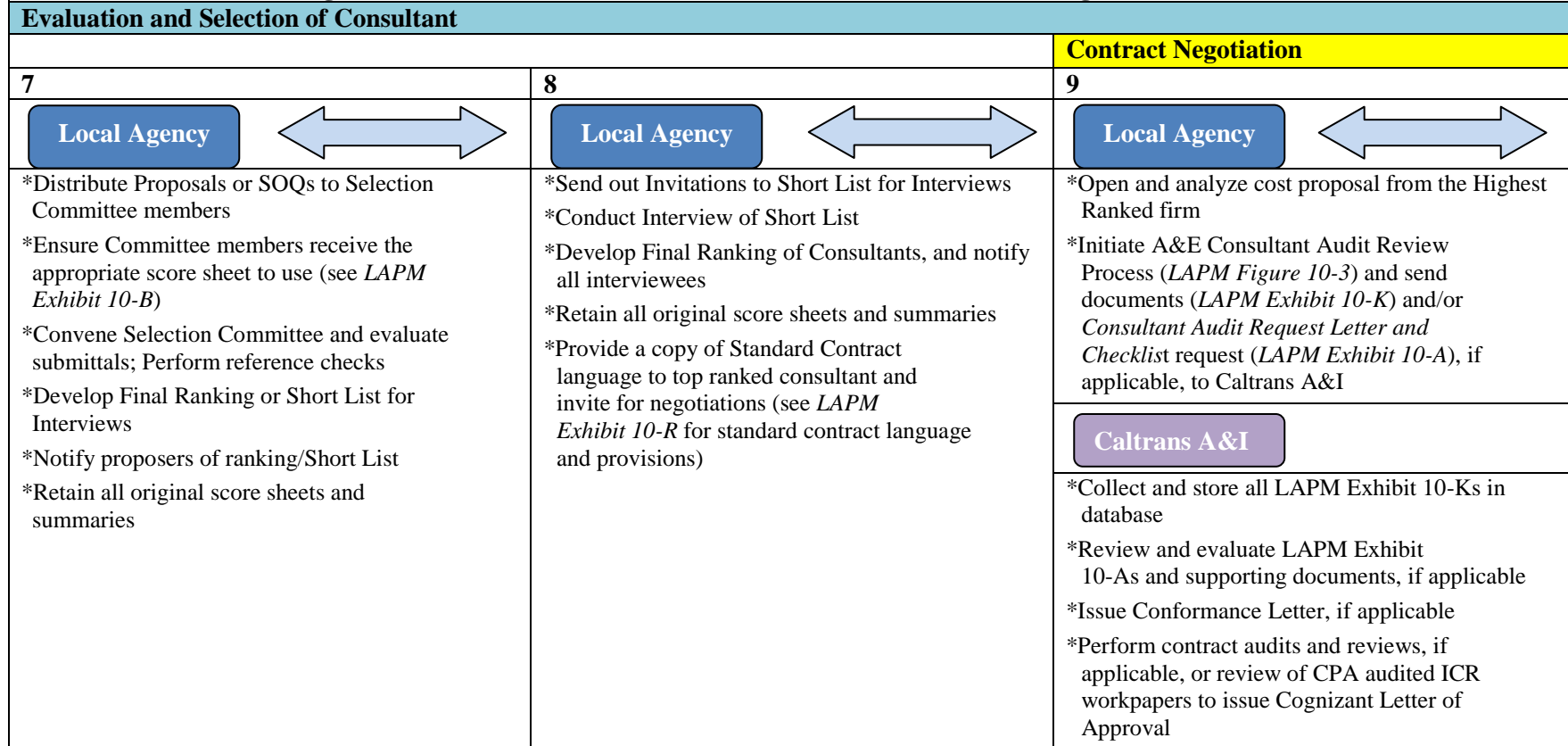
Figure 10-1 A&E Contract Procurement Process Workflow Diagram

A&E = Architectural and Engineering
 A&I = Caltrans Audits and Investigations
 CT = Caltrans
 DBE = Disadvantaged Business Enterprise
 DLA = Division of Local Assistance
 DLAE = District Local Assistance Engineer
 LAPG = Local Assistance Program Guidelines
 LAPM = Local Assistance Procedures Manual
 MOP = Method of Payment
 RFP = Request for Proposal
 RFQ = Request for Qualifications
 SOQ = Statement of Qualifications
 SOW = Statement/Scope of Work

Figure 10-1 A&E Contract Procurement Process Workflow Diagram - Continued

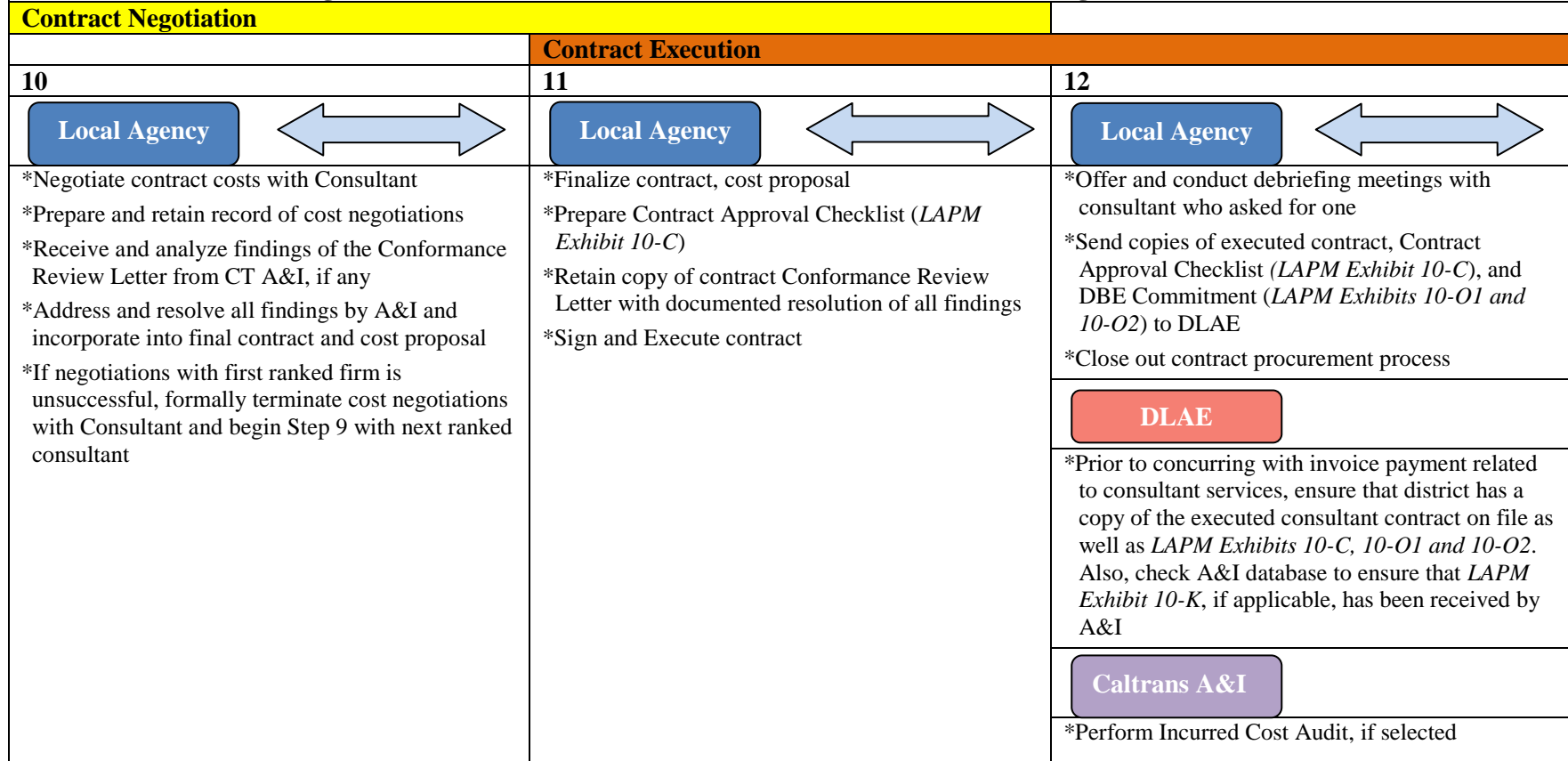


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CHAPTER 10 CONSULTANT SELECTION

10.1 GENERAL

INTRODUCTION

A local agency may engage consultants to perform architectural, engineering, and related services needed to develop a Federal-Aid or state funded project. Those private consulting firms providing architectural, landscape architectural, engineering, environmental, land surveying, construction engineering, or construction project management services, with respect to a construction project, are termed “Architectural and Engineering (A&E) Consultants.” Local agencies requesting state or federal funds to reimburse A&E Consultants must follow the selection and contracting procedures detailed in this chapter.

ARCHITECTURAL AND ENGINEERING CONSULTANTS

The provisions of the Brooks Act (40 USC, Section 1104) require local agencies to award federally funded engineering and design related contracts on the basis of fair and open competitive negotiations, demonstrated competence, and professional qualifications (23 Code of Federal Regulations (CFR), Part 172), at a fair and reasonable price (48 CFR 31.201-3). Both federal regulations and California state law (Government Code 4525-4529 et al) requires selection of A&E contract services on the basis of demonstrated competence and professional qualifications.

Cost proposals submitted to the local agency, if above the small purchase procurement threshold, must be sealed and may not be included as a criterion for rating such consultants. After ranking, cost negotiations may begin with the most qualified consultant and only their cost proposal will be opened. Should negotiations fail or result in a price that the local agency does not consider fair and reasonable, negotiations must be formally terminated and the local agency must then undertake negotiations with the second most qualified consultant.

If the negotiations with the second most qualified firm are not successful, negotiations must be formally terminated and the local agency must then undertake negotiations with the third most qualified consultant, and so on, until the price is determined to be fair and reasonable by the local agency.

In selecting an A&E consultant, a detailed technical proposal or qualifications proposal, and a proposed contract will be required.

Depending upon the scope of work, the required contract provisions may need to include the California State Prevailing Wages (Federal “Payment of Predetermined Minimum Wage” applies only to Federal-Aid construction contracts). Prevailing wages will apply if the services to be performed will involve land surveying (such as flag persons, survey party chief, rodman or chainman), materials sampling and testing (such as drilling rig operators, pile driving, crane operators), inspection work, soils or foundation investigations, environmental hazardous materials and so forth. California State Prevailing Wage information is available through the California Department of Industrial Relations (DIR) websites below.

- DIR FAQ website: http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html
- DIR Wage Determination website:
<http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>

NON-A&E CONSULTANTS

Consultants other than A&E consultants may be selected using cost, cost and qualifications (best value) or other critical selection criteria. The procedures outlined in this chapter can be modified for selecting non-A&E consultants by adding a cost item to the contract proposal. The Brooks Act and the audit and review process described in Section 10.3 “*A&E Consultant Audit and Review Process*” of this chapter are optional for non-A&E Consultant contracts.

Non-A&E contract procurement on highway projects must comply with California State Public Contract Code.

SELECTING THE PROJECT

The local agency is responsible for selecting and initiating a Federal-Aid or state financed transportation project. The decision to begin project development is influenced by the project needs, its acceptability, the timing of studies, financing, and construction. The local agency must identify the project’s objectives including the general level of improvement or service, operating standards, maximum cost and the target date for project completion before commencing any consultant selection process.

SUBCONTRACTED SERVICES

The consultant is responsible for performing the work required under the contract in a manner acceptable to the local agency. The consultant’s organization and all associated consultants and subconsultants must be identified at the time of the proposal. If the consultant wishes to use a subconsultant not specified in the proposal, prior written approval must be obtained from the local agency.

If a subcontract for work or services to be performed exceeds \$25,000, the subcontract must contain all required provisions of the prime contract.

ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST

In the procurement of contracts for engineering services by private consulting firms using Federal-Aid highway or state funds, local agencies must take all the steps necessary to prevent fraud, waste and abuse. The local agency must develop and maintain a written code of conduct governing the performance of its employees engaged in the award and administration of Federal-Aid highway funded contracts, including the prevention of conflicts of interest.

A conflict of interest occurs when a public official’s private interests and his or her public duties and responsibilities diverge or are not consistent. Conflicts of interest may be direct or indirect (e.g., as a result of a personal or business relationship). Additionally, the appearance of a conflict of interest should be avoided as an apparent conflict may undermine public trust if not sufficiently mitigated.

FEDERAL REGULATION GOVERNING CONFLICT OF INTEREST (23 CFR 1.33) REQUIRES THAT:

- No contracting agency employee who participates in the procurement, management, or administration of state or federal funded contracts or subcontracts shall have, directly or indirectly, any financial or other personal interest in connection with such contract or subcontract;
- No person or entity performing services for a contracting agency in connection with a state or federal funded project shall have, directly or indirectly, any financial or other personal interest, other than employment or retention by the

contracting agency, in any contract or subcontract in connection with such project;

- No person or entity performing services for a contracting agency in connection with a Federal-Aid Highway Project funded project shall have, directly or indirectly, any financial or other personal interest in any real property acquired for the project.

CONSULTANTS PERFORMING WORK ON MULTIPLE PHASES OF FEDERAL-AID PROJECTS

Local agencies sometimes wish to hire the same consultant firm to perform construction engineering and/or inspection services on the same project on which the firm also performed design services. This can result in project delivery efficiencies, as the design firm is well-suited to verify that the project is being constructed in accordance with the design and can resolve issues related to the design on behalf of the contracting agency. However, this may also pose a potential conflict of interest if the firm has a vested financial interest in failing to disclose deficiencies in its design work product and seeks to insulate itself from pecuniary liability in subsequent phases of the project, such as minimizing or ignoring design errors and omissions, rather than serving the best interests of the contracting agency and the public. Procuring a different firm from the design firm to provide the necessary construction engineering and/or inspection services provides another level of review and reduces the risk of, or potential for, a conflict of interest.

Although federal regulations do not expressly prohibit the same firm from providing services on subsequent phases, the local agencies are responsible for ensuring the public interest is maintained throughout the life of a project and that a conflict of interest, direct or indirect, does not occur or is sufficiently mitigated by appropriate public agency controls. Prior to allowing a consulting firm to provide services on subsequent phases of the same project, the contracting agency must establish appropriate compensating controls in the form of policies, procedures, practices, and other safeguards to ensure a conflict of interest does not occur in the procurement, management, and administration of consultant services.

When design and construction phase services are procured under a single solicitation, the selection of the consulting firm must be based on the overall qualifications to provide both design and construction phase services, which require different skill sets, experience, and resources. Procuring these services under different solicitations may result in the selection of a more qualified firm to perform services in each phase, as the most qualified firm to perform design phase services may not be the most qualified firm to provide construction phase services. Similarly, the qualifications and capacity of a firm may change over time. As such, it may not be appropriate to contract with a consulting firm to provide construction phase services at the outset of a design phase, knowing that these services may not be needed for an extended period of time until the preconstruction phase of the project is complete and construction funding authorized.

The contract with a consulting firm providing design phase services on a project may not be amended to include construction phase services unless the desired construction phase services were included within the original advertised scope of services and evaluation criteria of the solicitation from which a qualifications based selection was conducted.

All consultants acting in a management role must complete Exhibit 10-U “Consultant in Management Position Conflict of Interest and Confidentiality Statement” and retain it in the local agency files.

AUTHORIZATION TO PROCEED

The Federal Highway Administration (FHWA) must give the local agency an “*Authorization to Proceed*” with the work prior to the performance of any work for which federal reimbursement is to be requested, (see Chapter 3 “*Project Authorization*”). For state funded projects, see Chapter 23 “*Local Agency State Transportation Improvement Program Projects*”, of the *Local Assistance Program Guidelines* (LAPG) for guidance as to when work may proceed.

Copies of the “*Authorization to Proceed*” and the consultant contract must be retained in the local agency project files for future audit purposes.

10.2 IDENTIFYING & DEFINING A NEED FOR CONSULTANTS

The need for a consultant is identified by comparing the project’s schedule and objectives with the local agency’s capabilities, its staff availability of the required expertise, and its funding resources. If the local agency does not have sufficient staff capabilities, it may choose to solicit assistance from another agency, or use a qualified private consultant to perform the required work.

If the local agency determines that there is a need to solicit assistance from another local agency, or to use a consultant, the *District Local Assistance Engineer* (DLAE) should be notified if Federal-Aid or state funds are to be requested for the project segment to be contracted out.

APPOINTING THE CONTRACT ADMINISTRATOR

The Contract Administrator is responsible for ensuring the quality of consultant contract products or services. The Contract Administrator is appointed as soon as the need for consultant services is identified. The Contract Administrator is involved throughout the development of the selection process and the contract provisions, and in the administration of the consultant’s work. The Contract Administrator must be a qualified local agency employee, or have staff that is qualified to ensure the consultant’s work is complete, accurate, and consistent with the terms and conditions of the consultant contract. On Federal-Aid contracts, the Contract Administrator or staff members must be a full time employee and familiar with the work to be contracted out and the standards to be used. The Contract Administrator must also abide by the laws, regulations and policies required as part of accepting state or federal funding for their project. Non-compliance with the laws, regulations, and policies may result in loss of project funding.

The Contract Administrator’s duties include, but are not limited to the following:

- Ensures that all records, files and other documents related to the contract procurement and management activities are retained in the contract/project files;
- Provides direction to ensure the proposed work is advertised properly;
- Prepares and distributes the Request for Qualifications (RFQ), description of work, and Request for Proposals (RFP), if used;
- Prepares the draft contract;
- Arranges for preparation in advance of an independent estimate of the value of the work to be contracted out;
- Ensures that the selection procedures are followed;
- Analyzes the selected/best-qualified consultant’s cost proposal;
- Ensures contract audit and review procedure is followed;

- Ensures that fee/profit negotiation is conducted and keeps records;
- Serves as the local agency's primary contact person for the successful consultant;
- Monitors the consultant's progress and provides direction;
- Reviews and approves the consultant's invoices and/or progress payments to ensure that billings are in accordance with the terms and conditions of the contract, and correspond accurately to the work performed during the billing period;
- Identifies other local agency staff for the consultant to contact, if needed;
- Closes out the contract at completion, by processing the final invoice; completing a mandatory consultant evaluation, and final Disadvantaged Business Enterprise (DBE) utilization reports (Exhibit 17-F).

DETERMINING THE PROJECT SCHEDULE

The local agency develops a schedule for performance of work and completion of the project. The schedule must include sufficient time to allow for:

- Selecting the consultant;
- Developing the consultant contract;
- Completing the A&E consultant contract audit process;
- Conducting meetings and project reviews.

SEGMENTING CONSULTANT WORK

Consultant services are most effective when consultant work is segmented appropriately. The extent of segmenting depends upon the type and complexity of the work. Combining preliminary engineering tasks with the preparation of the required environmental analysis is normally desirable. Preparing an Environmental Assessment (EA) or Environmental Impact Statement (EIS) is more than simply writing a report. Assessment and impact reports include preliminary engineering needed to analyze project alternatives and produce an engineering and planning assessment. Initial project studies include only as much traffic and engineering analysis of alternatives, as is needed to produce a sound EA or EIS (see Chapter 6 "*Environmental Procedures*" and Chapters 31 and 32 of the *Standard Environmental Reference* [SER]). Final detailed design shall not begin until environmental clearance has been received if federal reimbursement is desired.

Refer to Figure 10-2 "*Segmenting Consultant Work*" in this chapter, which illustrates several satisfactory ways to segment consultant activities.

FIGURE 10-2 SEGMENTING CONSULTANT WORK

	Well-structured Projects With Simple Right of Way Requirements	Well-structured Projects With Complex Right of Way Requirements	More Difficult Projects	Very Complex Projects
Preliminary Engineering				
Environmental Analysis				
Plans, Specifications & Estimate				
Right of Way Activities				
Utility Relocation				
Construction Engineering				

SPECIFY PRODUCTS TO BE DELIVERED

The Contract Administrator identifies the products and services to be delivered as a result of consultant contract work, and minimum qualification of consultant professionals and staff. These vary depending upon the type of projects and the phase of project development being addressed.

SCOPE OF CONSULTANT WORK

The scope of work, which the contract must include, is a detailed description of the products or services the consultant is to provide. From a detailed scope of work, consultants respond to a project advertisement; determine personnel and time requirements; and develop a technical proposal. Therefore, the scope of work must be clear, concise, complete, and describe the deliverables, standards for design and other work, quality control measures, acceptance criteria and deadlines.

NON-DISCRIMINATION CLAUSE

The Non-Discrimination Clause (Exhibit 10-R “*A&E Sample Contract Language*”, Article XVI Statement of Compliance) must be included in each consultant contract. The consultant must include the non-discrimination and compliance provisions of the Non-Discrimination Clause in all subcontracts to perform work under the contract.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

When administering Federal-Aid projects, federal regulations (49 CFR, Part 26) require a local agency to comply with the DBE program, and take necessary steps to ensure that DBE firms have the opportunity to participate in the projects. Such steps include the setting of goals to ensure DBE firms are considered by the proposing consultants and, when feasible, organizing the project schedule and task requirements to encourage participation in the contract by DBE firms. Local agencies should be fully aware of all of the subcontracting opportunities in their consultant contracts. For detailed information and requirement on the DBE Program, see Chapter 9 “*Civil Rights and Disadvantaged Business Enterprises*”.

The consultant must ensure that certified DBE firms have the opportunity to participate in the performance of the contract and must take all necessary and reasonable steps to facilitate participation by DBE firms for such assurance.

A DBE goal must be established by the local agency for each contract if there are subcontracting opportunities and available DBE firms. Exhibit 10-I “*Notice to Proposers DBE Information*” must be included in the RFQ or RFP if the proposed contract will include Federal-Aid funds. The consultant must meet the goal by using DBEs, or if not able to meet the DBE goal, document that a good faith effort was made to meet the contract goal. Good faith efforts must be documented by the consultant and approved by the local agency (see Exhibit 15-H “*DBE Information-Good Faith Efforts*”). If the consultant’s documented good faith efforts are found to be inadequate by the local agency, the consultant must be offered an opportunity for reconsideration.

If a DBE subconsultant is unable to perform its subcontracted services and the goal is not otherwise met, the consultant must make a good faith effort to replace it with another DBE subconsultant to the extent needed to meet the DBE goal. For more detailed information see Exhibit 10-I “*Notice to Proposers DBE Information*”.

A contract provision for DBE Participation must be included in all consultant contracts with Federal-Aid funds. For sample contract clauses with and without specified DBE goals see Exhibit 10-R “*A&E Sample Contract Language*”, Article XX Disadvantaged Business Enterprise (DBE) Participation.

REPORTING DBE COMMITMENTS AND DBE INFORMATION

FOR CONTRACTS WITH DBE GOALS

If the local agency has set a DBE goal, Exhibit 10-O1 “*Consultant Proposal DBE Commitment*” must be included in the proposal package provided to the local agency by each (prime consultant) proposer. The purpose of Exhibit 10-O1 “*Consultant Proposal DBE Commitment*” is to demonstrate the proposer’s commitment to meet the DBE goal set by the local agency.

Exhibit 10-O2 “*Consultant Contract DBE Information*”, must be completed at the conclusion of cost negotiations, incorporated into the final agreement and a copy sent to the DLAE. The purpose of this form is to capture DBE participation in accordance with 49 CFR, Part 26. This form must include the names, addresses, and phone numbers of DBE firms that will participate with a complete description of work or supplies to be provided by each, and the dollar value of each DBE transaction. When 100 percent of a subcontracted item of work is not to be performed or furnished by the DBE firm, a description of the exact portion of work to be performed or furnished by that DBE must be included in the DBE commitment, including the planned location of that work. A proposer certified as a DBE firm must describe the work it has committed to be performed with its own forces, as well as any other work that it has committed to be performed by the DBE subconsultant, suppliers, and trucking companies.

The winning proposer must provide written confirmation from each DBE firm participating in the contract. A copy of a DBE’s quote will serve as written confirmation that the DBE is participating in the contract. If a DBE is participating as a joint venture partner, the proposer must submit a copy of the joint venture agreement.

FOR CONTRACTS WITH NO DBE GOALS

For contracts with no DBE contract goal, Exhibit 10-O1 “*Consultant Proposal DBE Commitment*” is not necessary and only Exhibit 10-O2 “*Consultant Contract DBE*

Information” must be included in the award package and provided by the winning proposer.

REPORTING DBE FINAL UTILIZATION (CONTRACTS WITH OR WITHOUT GOALS)

Upon completion of the contract a summary of the DBE final utilization must be prepared, certified correct, and submitted on Exhibit 17-F “*Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultant*” or equivalent to the local agency showing total dollars paid to each subconsultant and supplier. Exhibit 17-F is reviewed by the local agency and certified as complete and accurate.

The local agency must send the original, plus one copy of the completed Exhibit 17-F with the final invoice to the DLAE within 30 days after completion of the contract.

ESTIMATED COST OF CONSULTANT WORK

An independent estimate for cost or price analysis is needed for all consultant contracts (49 CFR 18.36(f)) to ensure that consultant services are obtained at a fair and reasonable price. The estimate is prepared in advance of requesting a cost proposal from the top-ranked consultant, so the local agency’s negotiating team has a cost analysis of the project to evaluate the reasonableness of the consultant’s cost proposal. The estimate, which is specifically for the use of the local agency’s negotiating team, is to be kept confidential and maintained for records.

A good cost estimate can be prepared only if the scope of work is defined clearly. The scope of work must include a list of the products or services which the consultant is required to deliver, and a time schedule of when they must be delivered.

It should be stressed that all work to be derived from the consultant services, such as preliminary design, environmental or final design, must be clearly identified in the solicitation of consultant services (RFQ or RFP) and included in the cost estimate. The addition of work to the original scope by amendment should be avoided whenever possible.

Some of the costs estimating techniques are:

Analogous Estimating

Analogous cost estimating is using the actual cost of a previous, similar contract as the basis for estimating the cost of the current contract. Analogous cost estimating is frequently used to estimate costs when there is a limited amount of detailed information about the project. Analogous cost estimating is generally less accurate and it is most reliable when previous projects are similar in fact, and not just in appearance, and it uses expert judgment.

Parametric Estimating

Parametric estimating is a technique that uses statistical relationship between historical data and other variables to calculate a cost estimate for an activity resource. This technique can produce a higher level of accuracy depending upon the sophistication, as well as underlying resource quantity and the cost data. A cost example would involve multiplying the planned quantity of work by the historical cost per unit to obtain the estimated cost of the contract.

Bottom-up Estimating

This technique involves estimating the cost for individual work in the contract with the lowest level of detail. This detailed cost is then summarized or “rolled up” to determine a total cost of contract. Cost detail should include estimated hours per task, labor hourly

cost for professional and non-professional classifications, subconsultant costs, other project direct costs, and profit. Labor costs should be broken down to direct labor and indirect cost rates, if possible.

If more than one project or phase of work is to be developed within the consultant contract, separate cost estimates are required for each project or phase of work. Separate cost estimates are required for each milestone and portion of the work expected to be subcontracted.

For on-call (as-needed) contracts, the cost estimate/analysis should include at minimum, a historical analysis of annual needs for consultant work, professional labor cost and market analysis, and reasonable profit analysis.

DETERMINE TYPE OF CONTRACT

Types of contracts to be used are described as follows:

- Project-specific contract is between the local agency and consultant for the performance of services and a defined scope of work related to a specific project or projects.
- Multi-purpose or multi-phased contract is a project-specific contract where the defined scope of work is divided into phases which may be negotiated and executed individually as the project progresses.
- On-call contract is a contract for a number of projects, under which task or work orders are issued on an as-needed basis, for an established contract period. On-call contracts are typically used when a specialized service of indefinite delivery or indefinite quantity are needed for a number of different projects, such as construction engineering, design, environmental analysis, traffic studies, geotechnical studies, and field surveying, etc. Many agencies use these contracts to address peaks in workload of in-house engineering staff and/or to perform a specialized service which the agency does not have. On-call contracts shall specify a reasonable maximum length of contract, not to exceed 5 years, and a maximum total contract dollar amount (23 CFR 172).

To maintain the intent of the Brooks Act (40 USC 1101-1104) in promoting open competition and selection based on demonstrated competence and qualifications, on-call consultant contracts established through the RFQ process must meet the following requirements:

- Must define a general scope of work, complexity, and professional nature of services.
- Specify a “task order” procedure the local agency uses to procure project specific work under the contract.
- If multiple consultants are to be selected and multiple on-call contracts awarded through a single solicitation for specific services:
 - Identify the number of consultants that may be selected or contracts that may be awarded.
 - Specify procedures in the contracts the local agency will use to award/execute task orders among the consultants:
 - Either through an additional qualification-based selection process (see the Two-Step RFQ/RFQ process later in this chapter), OR

- On regional basis whereby the region is divided into areas identified in the solicitation, and consultants are selected to provide on-call services for assigned areas only.

DETERMINE METHOD OF PAYMENT

The method of payment of contract must be specified. Four methods are permitted depending on the scope of services to be performed:

- Actual Cost-Plus-Fixed Fee (see Exhibit 10-H “*Sample Cost Proposal*”, Example #1);
- Cost Per Unit of Work (see Exhibit 10-H, “*Sample Cost Proposal*”, Example #3);
- Specific Rates of Compensation (see Exhibit 10-H “*Sample Cost Proposal*”, Example #2);
- Lump Sum (see Exhibit 10-H “*Sample Cost Proposal*”, Example #1).

ACTUAL COST-PLUS-FIXED FEE

The consultant is reimbursed for actual costs incurred and receives an additional predetermined amount as a fixed fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The determination of the amount of the fixed fee shall take into account the size, complexity, duration, and degree of risk involved in the work. The fixed fee is not adjustable during the life of the contract. The fixed fee dollar amount must be clearly stated in the contract.

This method of payment is appropriate when the extent, scope, complexity, character, or duration of work cannot be precisely predicted. Fixed fees apply to the total direct and indirect costs. The contract shall specify a reasonable maximum length of the contract period and a maximum total contract dollar amount (see Exhibit 10-H “*Sample Cost Proposal*” Example #1” and Exhibit 10-R “*A&E Sample Contract Language*”, Article V, *Option 1* in this chapter). The contract cost proposal must identify all key employees and/or classifications to be billed. New key employees and/or classifications must be approved before they incur work on the contract or the costs can be questioned or disallowed.

COST PER UNIT OF WORK

The consultant is paid based on specific item of work performed. The item of work must be similar, repetitious and measurable, such as geotechnical investigation and material testing. This method of payment is appropriate when the cost per unit of work can be determined with reasonable accuracy in advance; but the extent or quantity of the work is indefinite. Contract payment provisions must specify what is included in the price to be paid for each item. Any item of work not identified in the contract cost proposal is not eligible for reimbursement. New items of work (those within the original scope of work only) must be amended into the contract before work is performed. The contract shall also specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see Exhibit 10-H “*Sample Cost Proposal*”, Example #3 and Exhibit 10-R “*A&E Sample Contract Language*”, Article V, *Option 2*).

SPECIFIED RATES OF COMPENSATION

The consultant is paid at an agreed and supported specific fixed hourly, daily, weekly or monthly rate, for each class of employee engaged directly in the work. Such rates of pay include the consultant’s estimated costs and net fee (profit). Federal regulations require that profit be separately negotiated from contract costs. The specific rates of compensation, except for an individual acting as a sole proprietor, are to include an

hourly breakdown, direct salary costs, fringe benefits, indirect costs, and net fee. Other direct costs may be included, such as travel and equipment rentals, if not already captured in the indirect cost rate.

This method of payment should only be used when it is not possible at the time of procurement to estimate the extent or the duration of the work, or to estimate costs with any reasonable degree of accuracy. This method is recommended for on-call contracts for specialized or support type services, such as construction engineering and inspection, where the consultant is not in direct control of the number of hours worked, and it also requires management and monitoring of consultant's level of effort and the classification of employees used to perform the contracted work. The contract shall also specify a reasonable maximum length of contract period and a maximum total contract dollar amount (see Exhibit 10-H "*Sample Cost Proposal*", Example #2 and Exhibit 10-R "*A&E Sample Contract Language*", Article V, *Option 3*).

LUMP SUM OR FIRM FIXED PRICE

The consultant performs the services stated in the contract for an agreed amount as compensation, including a net fee or profit. This method of payment is appropriate only if the extent, scope, complexity, character, duration, and risk of the work have been sufficiently defined to permit fair compensation to be determined and evaluated by all parties during negotiations (see Exhibit 10-H "*Sample Cost Proposal*", Example #1 and Exhibit 10-R "*A&E Sample Contract Language*", Article V, *Option 4*).

Normally, a lump sum contract will be paid in full at the end of the contract when completed. However, a lump sum contract can be negotiated with a progress payment if feasible. The progress payment shall be based on percent of work complete or completion of clearly defined "milestones". The contract cost proposal shall document the agreed upon progress payment and include the necessary milestones costs, or the payment schedule based on the percent of work completed.

10.3 A&E CONSULTANT AUDIT AND REVIEW PROCESS

This section outlines the audit and review process for A&E contracts that at any time use state or federal funds. All proposed A&E contracts and supporting documents are subject to audit or review by Caltrans' Audits and Investigations (A&I), other state audit organizations, or the federal government. Not all proposed contracts will be audited or reviewed; rather, they will be selected on a risk-based approach. Figure 2 "*Segmenting Consultant Work*", near the end of this section, shows an overview of the audit and review process.

APPLICABLE STANDARDS

State and federal requirements listed below, as well as specific contract requirements, serve as the standards for audits and reviews performed. The local agencies, consultants, and subconsultants are responsible for complying with state, federal and specific contract requirements. Local agencies are responsible for determining the eligibility of costs to be reimbursed to consultants. Applicable standards include, but not limited to:

- Caltrans Local Assistance Procedures Manual (LAPM);
- Project Program Supplemental Agreements;
- 23 CFR, Chapter 1, Part 172 – *Administration of Engineering and Design Related Service Contracts*;

- 48 CFR, *Federal Acquisitions Regulation Systems (FAR)*, Chapter 1 FAR, Part 31- *Contract Cost Principles and Procedures*;
- 48 CFR, Chapter 99 – *Cost Accounting Standards*, Subpart 9900;
- 49 CFR, Transportation, Subtitle A, Office of the Secretary of Transportation, Volume 1, Part 18, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Government*;
- 49 CFR, Part 18.20 – *Standards for Financial Management Systems*;
- 23 USC, Part 112 – *Letting of Contracts*;
- United States Government Accountability Office, *Government Auditing Standards (GAS)*;
- Proposed contract terms and conditions.

See section 10.10 “*References*” of this Chapter for links to above referenced standards.

AUDIT GUIDANCE AVAILABLE

The American Association of State Highway Officials, Uniform Audit & Accounting Guide ([AASHTO Uniform Audit & Accounting Guide](#)) or (<http://audit.transportation.org/Documents/UAAG-3%20FINAL.pdf>), which is referred to frequently in this section, is an invaluable tool to guide local agencies, consultants and certified public accountants (CPAs) through the requirements for establishing, and audits of, FAR compliant indirect cost rates (ICRs). The [AASHTO Uniform Audit & Accounting Guide](#) is used extensively as an industry guide in the audit and review process.

The local agency may seek financial and accounting assistance from its own internal audit staff.

The consultant may also seek professional guidance in selecting its independent CPA. See also the [AASHTO Uniform Audit & Accounting Guide](#), Ch 2.5 C. *Selection of the CPA Firm as Overhead Auditor* for guidance in the selection process.

Training is also offered by FHWA’s National Highway Institute (see <http://www.nhi.fhwa.dot.gov/default.aspx>). Courses offered include:

- Using the AASHTO Uniform Audit & Accounting Guide for the Procurement and Administration of A&E Contracts (FHWA-NHI-231028)
- Using the AASHTO Uniform Audit & Accounting Guide for the Development of A&E Consultant Indirect Cost Rates (FHWA-NHI-231029)
- Using the AASHTO Uniform Audit & Accounting Guide for the Auditing and Oversight of A&E Consultant Indirect Cost Rates (FHWA-NHI-231030)

CONTRACTS AND CONSULTANTS SELECTED FOR AUDIT OR REVIEW

Whether a proposed contract or consultant is selected for audit or review through A&I’s risk-based approach is dictated by the dollar thresholds of the proposed contract, and other risk factors listed below.

Dollar thresholds for audits or reviews are stratified as follows:

- Less than \$150K – no audit or review is required, but is optional;
- Between \$150K and \$1M (Case 1);
- Between \$1M and \$3.5M (Case 2);
- \$3.5M and above (Case 3).

Specifics of Cases 1, 2 and 3 are outlined later in this section.

Risk factors considered include the consultant's, but not limited to:

- History of satisfactory performance;
- Prior FAR compliant history and audit frequency;
- Financial stability;
- Conformance to terms and conditions of previous contracts;
- General responsiveness and responsibility;
- The approximate dollar amount of all A&E contracts awarded to the consultant by Caltrans or a local agency in California within the last three calendar years;
- The number of states in which the consultant does business;
- The type and complexity of the consultant's accounting system;
- The relevant professional experience of any CPA performing audits of the consultant's ICR;
- Responses to internal control questionnaire (ICQ), see [AASHTO Uniform Audit & Accounting Guide, Appendix B](#);
- Changes in the organizational structure.

If audited or reviewed, contracts, cost proposals, and ICR(s) shall be modified to conform to audit and review recommendations that address requirements. Local agencies are responsible for ensuring contracts, cost proposals, and ICR(s) are modified to conform to audit and review recommendations as necessary, and to ensure that audit findings and review deficiencies are resolved in a timely manner.

The local agency may be subject to the sanctions outlined in Chapter 20 "*Deficiencies and Sanctions*" if the state or federal government determines that any reimbursements to the consultant are the result of the lack of proper contract provisions, unallowable charges, unsupported activities, or an inadequate financial management system.

SUBCONSULTANT IMPACTS

Subconsultants are required to follow all the state, federal and contract requirements outlined above in *Standards that Apply*. In addition, all subconsultants are required to:

- Certify their contract costs and financial management system (Exhibit 10-K "*Consultant Certification of Contract Costs and Financial Management System*") when the **total** contract between the prime consultant and the local agency is \$150K or more. (23 U.S.C. 112(b)(2)(B)). Reminder: The contract is between the local agency and the prime consultant. Subconsultants, as parties to the contract, must also adhere to this requirement.
- Use the accrual basis of accounting when developing their ICRs.
- Have an adequate job costing system.

Subconsultants' cost proposals also must be submitted along with the prime consultants' cost proposals through the request for audit process (see Exhibit 10-A "*A&E Consultant Audit Request Letter and Checklist*") when the total (prime plus subs) proposed contract is \$1M or more.

COGNIZANT LETTERS OF APPROVAL

"Cognizant" audits and reviews have been developed to assign primary responsibility for an ICR audit to a single entity (the "cognizant agency") to avoid duplication of audit work performed in accordance with GAS. The objective of these audits and reviews is to

obtain reasonable assurance that claimed costs are in accordance with the FAR cost principles. A cognizant agency may be the home state Department of Transportation (DOT) (the state where the consultant's financial records are located), a federal agency, or a non-home state DOT to whom the home state has transferred cognizance. When providing cognizant ICR approval the cognizant agency may either perform an ICR audit themselves, or they may review and rely on the work/workpapers related to an ICR audit performed by a CPA. The desired outcome of a cognizant audit or CPA Workpaper Review is for the "cognizant agency" to issue a Cognizant Letter of Approval so that the ICR can be relied upon on future contracts with the consultant for a given year and for reliance by other state agencies using the same consultant.

A&I will accept a consultant's cognizant approved ICR for the applicable one-year accounting period, if rates are not under dispute. The consultant is responsible for providing documentation of its cognizant approved ICR and Cognizant Letter of Approval.

MOST COMMON AUDITS AND REVIEWS TO BE PERFORMED

ICR AUDITS

During an ICR audit, the auditors (A&I or independent CPAs) will examine the consultant's proposed ICR for the applicable one-year accounting period on the proposed contract to ensure that unallowable costs have been removed from the overhead, that allowable costs have been correctly measured and properly allocated, and that the ICR has been developed in accordance with the FAR cost principles (as specified in 23 USC 112(b)(2)(B), 23 CFR 172.7(a), and 48 CFR Part 31). As a result of the audit, the local agency will work with the consultant to adjust the ICR where disallowed costs are identified based on audit recommendations.

ICR Audits apply to Case 1 and Case 2 contracts (see Case descriptions below) selected for audit. Cognizant Letters of Approval are issued with ICR Audits.

For guidance regarding the existing policies and procedures set forth in the Federal Regulations, and acceptable samples of ICR schedules, refer to the AASHTO Uniform Audit & Accounting Guide, Chapter 5.

The review program in the AASHTO Uniform Audit & Accounting Guide, Appendix A, should be used as a guide in performing ICR audits. This review program will be used for reviews of CPA audited ICR workpapers.

IMPORTANT NOTE FOR CPAs: Contracts receiving state or federal funds are highly scrutinized. Materiality levels tend to be lower and more testing is required. Strict use of the AASHTO Uniform Audit & Accounting Guide cannot be stressed enough.

CPA AUDITED ICR WORKPAPER REVIEWS

During a CPA Audited ICR Workpaper Review, A&I will review the CPA's workpapers of its ICR audit to determine whether it is appropriate to issue a Cognizant Letter of Approval. The Workpaper Review is conducted to determine whether: (a) the CPA's audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS), (b) the CPA adequately considered the auditee's compliance with FAR Part 31 and related laws and regulations, and (c) the audit report format is acceptable. Chapter 11 of the AASHTO Uniform Audit & Accounting Guide includes a recommended format for the audit report and required disclosures.

CPA Audited ICR Workpaper Reviews apply to Case 3 contracts (see Case descriptions below) selected for review. Cognizant Letters of Approval are issued with CPA Workpaper Reviews.

The review program in the AASHTO Uniform Audit & Accounting Guide, Appendix A, will be used as a guide in performing CPA Workpaper Reviews.

IMPORTANT NOTE FOR CPAs: Contracts receiving state or federal funds are highly scrutinized. Materiality levels tend to be lower and more testing required. Strict use of the AASHTO Uniform Audit & Accounting Guide cannot be stressed enough.

OTHER AUDITS AND REVIEWS THAT MAY BE PERFORMED

CONTRACT AUDITS AND REVIEWS

During a Contract Audit or Review, auditors will review contracts and the consultants' financial management system to determine if:

- The consultants' accounting system is adequate to accumulate and segregate costs;
- Proposed costs are reasonable;
- The contract contains all necessary fiscal provisions and the provisions are sufficient in content;
- Proper state and federal procurement requirements were followed;
- Direct labor costs are compliant;
- Other audits/reviews of the contract is necessary

RISK ASSESSMENTS

During a Risk Assessment, auditors may require an ICQ and certification of the ICRs and may perform a certain level of analytical reviews of the ICRs. They may review the contract provisions, ICQ, ICR, and/or cost proposal(s) to determine if:

- The required fiscal provisions are in the proposed contract;
- The ICR and/or cost proposal(s) are mathematically accurate and in the proper format;
- The ICR and/or cost proposal(s) contain questionable costs.

INCURRED COST AUDITS

During an Incurred Cost Audit, auditors will review contracts to determine if costs claimed are:

- Adequately supported;
- Reasonable in nature;
- Allowable, allocable, and reasonable;
- In compliance with state and federal laws and regulations;
- In compliance with the fiscal provisions stipulated in the contract.

FINANCIAL MANAGEMENT SYSTEM REVIEW

During a Financial Management System Review auditors will determine whether:

- The accrual basis of accounting was used to prepare the ICR;
- There is a job cost accounting system adequate to accumulate and segregate allocable and allowable project costs;
- The consultant complied with 49 CFR, Part 18.20, Standards for Financial Management Systems.

CASE 1: PROPOSED A&E CONSULTANT CONTRACTS OF \$150,000 OR MORE

CONSULTANTS:

Prime consultants with a proposed contract **totaling** \$150,000 or more, **and** any subconsultants listed on the contract, must certify the accuracy of their contract costs and adequacy of their financial management systems (see Exhibit 10-K “*Consultant Certification of Contract Costs and Financial Management System*”). The certification is to be submitted to the local agency who in turn will forward a copy to A&I.

Components include certification that:

- All costs included in the proposed contract to establish final ICR are allowable in accordance with the cost principle of the FAR, 48 CFR, Part 31.
- The proposed contract does not include any costs which are expressly unallowable under the cost principles of the FAR, 48 CFR, Part 31.
- All known material transactions or events that have occurred affecting the firm’s ownership, organization, and ICRs have been disclosed.
- The consultant’s financial management system meets the standards for financial reporting, accounting records, internal and budget controls set forth in the FAR 49 CFR, Part 18.20.
- The consultant has provided the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to the consultant within the last three calendar years, and for all state DOTs and local agency contracts, and the number of states in which the firm does business.
- All direct costs included in the proposed contract are reasonable, allowable, and allocable in accordance with FAR 48 CFR, Part 31, in compliance with applicable accounting principles, and in compliance with the terms of the proposed contract.

Consultants must also ensure their ICRs are prepared in the acceptable ICR scheduled format, see AASHTO Uniform Audit & Accounting Guide, Chapter 5 tables.

LOCAL AGENCIES:

Local agencies are to forward copies of the consultant and subconsultant, if any, certification (Exhibit 10-K “*Consultant Certification of Contract Costs and Financial Management System*”) to A&I. **See bottom of this section for A&I’s email or mailing address.**

Case 1 consultants and contracts may be selected for an audit or review through a risk based approach described earlier in this section. Potential audits or reviews can be, but are not limited to:

- Contract Audits;
- Incurred Cost Audits;
- Financial Management System Review;
- ICR Audits;
- Risk Assessments.

CASE 2: PROPOSED A&E CONSULTANT CONTRACTS OF \$1M OR MORE

Local agencies and consultants with a proposed contract **totaling** between \$1M and \$3.5M must comply with all the requirements outlined in Case 1 above.

In addition, local agencies must send copies of the proposed contract and additional supporting documentation to A&I for review in conformance with certain requirements

outlined in the LAPM. Once the proposed contract and additional supporting documentation are reviewed, A&I will issue a Conformance Letter noting any deficiencies, if any. A&I will issue the Conformance Letter within 30 business days of receipt of a **complete** packet.

A **complete** packet consists of the documents listed below. Local agencies are required to provide these documents to A&I (see Exhibit 10-A “*A&E Consultant Audit Request Letter and Checklist*”):

1. Proposed contract between the local agency and consultant;
2. Cost proposal(s) for prime consultant **and** all subconsultants;
3. Names, mailing addresses, phone numbers and email addresses for prime consultant **and** subconsultants;
4. Name of local agency contact person, phone number, mailing addresses and email addresses;
5. Prime consultant generated ICR schedule prepared in accordance with applicable CFRs;
6. A completed ICQ (see AASHTO Uniform Audit & Accounting Guide, Appendix B), including all applicable attachments, for the prime consultant;
7. Exhibit 10-K “*Consultant Certification of Contract Costs and Financial Management System*” for the prime **and** all subconsultants.

And one of the following, **if available**:

- A copy of the prior fiscal year, and most recently completed fiscal year cognizant approved ICR and approved state DOT Cognizant Letter of Approval;
- A copy of the prior fiscal year, and most recently completed fiscal year, ICR Schedules and audited report by an independent CPA. If a CPA audited ICR is available for the appropriate fiscal year (applicable one-year accounting period), then the consultant must use the audited ICR, or a lower ICR (*see 23 CFR 172.7(b) for guidelines*);
- A copy of the prior, and most recently completed fiscal year, ICR(s) evaluation or audit report on a prior Caltrans or local agency contract, and any other governmental agency report/review/attestation.

Through A&I’s risk-based approach, consultants may be selected for an ICR or other contract audits or reviews. If an ICR audit is performed and the consultant’s ICR is in compliance with the FAR principles, a Cognizant Letter of Approval will be issued.

See bottom of this section for A&I’s Email or mailing address.

CASE 3: PROPOSED A&E CONSULTANT CONTRACTS OF \$3.5M OR MORE

Local agencies and consultants with a proposed contract **totaling** \$3.5M or more must comply with all the requirements in Case 1 and 2 above. Also, consultants must provide the following to the local agency who in turn will forward a copy to A&I:

- A state DOT’s approved ICR schedule **and** the Cognizant Letter of Approval;
OR
- CPA Audited ICR Audit Report **and** a copy of the CPA audited financial statements, if any.

Through A&I’s risk-based approach, CPA Audited ICR Workpaper Reviews may be performed. Local agencies are responsible for ensuring both the Consultant and its CPA provide full access to the CPA’s workpapers, including making copies upon request. Failure to do so may be considered a breach of contract. If a review is performed and the

CPA's work is in compliance with the FAR principles, a Cognizant Letter of Approval will be issued. *See bottom of this section for A&I's Email or mailing address.*

REQUIREMENTS FOR A CONFORMANCE LETTER

A complete packet is required to begin a conformance review. See Case 2: Proposed A&E Consultant Contracts of \$1M or More above for elements of a complete packet.

Requirements for a Conformance Letter include:

- Exhibit 10-A "A&E Consultant Audit Request Letter and Checklist" and all applicable items listed.
- Cost proposal(s) presented in the applicable format for the method of payment for the prime consultant *and* all subconsultants in the proposed contracts (see Determine Method of Payment in Section 10.2 "Identifying & Defining a Need for Consultants" and Exhibit 10-H "Sample Cost Proposal" for required formats and example proposals).
- ICRs prepared using the accrual basis of accounting for both the prime and subconsultants.
- An adequate financial accounting system (job cost system) for both the prime and subconsultants.
- The required fiscal provisions specified below must be included verbatim in the proposed contract (see Exhibit 10-R "A&E Sample Contract Language" for sample language and requirements):
 1. Performance Period (begin and end date) (Article IV);
 2. Allowable Costs and Payments (Article V);
 3. Termination (Article VI);
 4. Cost Principles and Administrative Requirements; (Article VII);
 5. Retention of Records/Audit; (Article VIII);
 6. Audit Review Procedures, (Article IX);
 7. Subcontracting (Article X);
 8. Equipment Purchase (Article XI);
 9. State Prevailing Wage Rates (Article XII);
 10. Conflict of Interest (Article XIII);
 11. Rebates, Kickbacks or other Unlawful Consideration (Article XIV);
 12. Prohibition of Expending Local Agency State or Federal Funds for Lobbying (Article XV).

A Conformance Letter will be issued within 30 business days of receipt of a complete packet.

Contracts cannot be executed until the Conformance Letter is issued and noted deficiencies that address requirements, are corrected. Corrected deficiencies, however, do NOT need to be cleared through A&I before executing the contract. Any supporting documentation addressing Conformance Letter deficiencies along with the executed contract shall be retained in the project file.

A&I email address: caltransfederalfundaward@dot.ca.gov

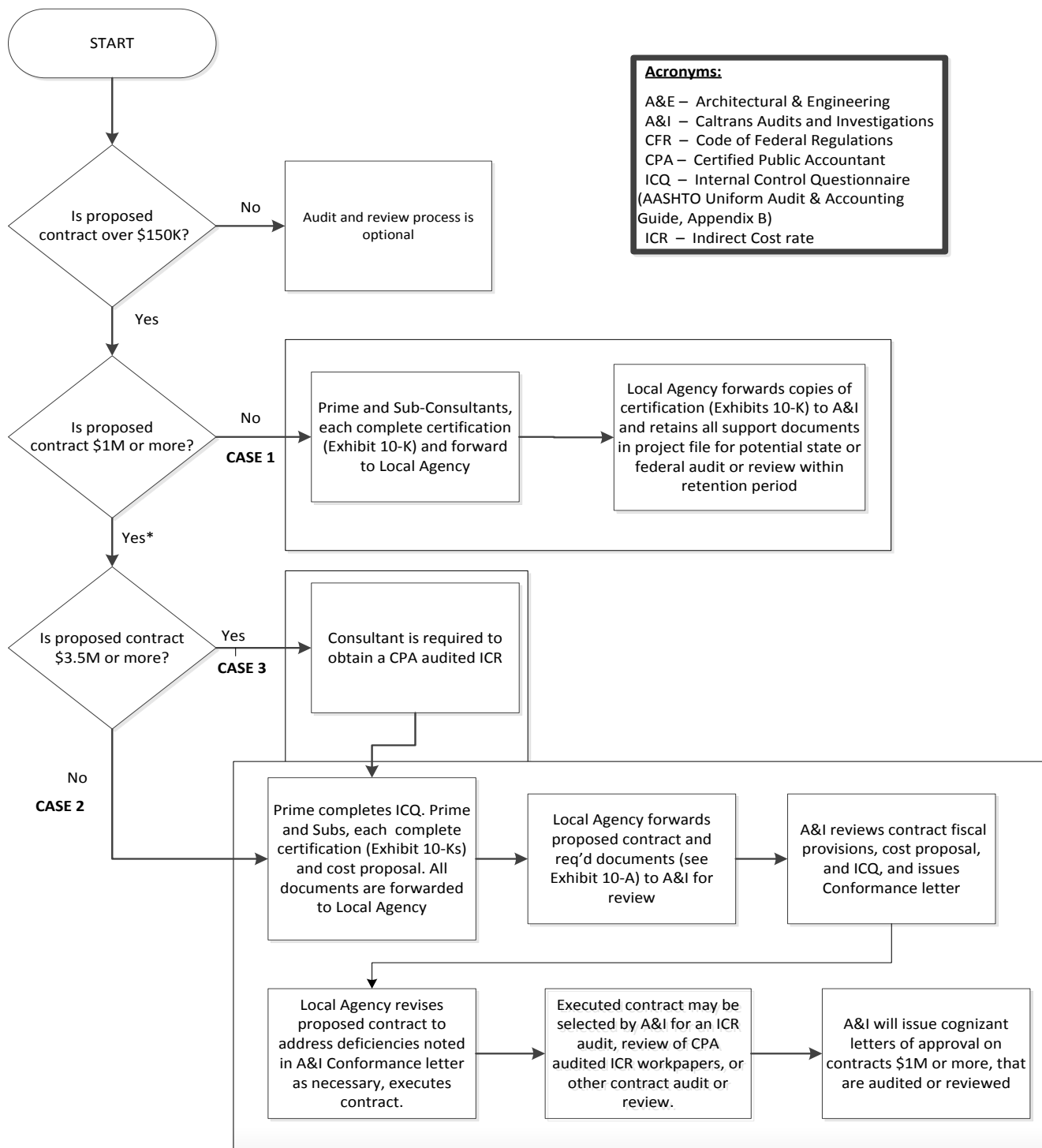
A&I mailing address:

Department of Transportation
Audits and Investigations, MS 2
Attention: External Audit Manager
P.O. Box 942874
Sacramento, CA 94274-0001

SUMMARY OF CONTRACTS TO BE AUDITED OR REVIEWED

<i>Proposed Contract Amount</i>	<i>Documents Required</i>	<i>Conformance Letter Required?</i>	<i>Audit/Review Performed?</i>	<i>If Audited or Reviewed will Cognizant Letter of Approval be Issued?</i>
Small Purchase Procedure Less than \$150K	None	No	Audit/Review not required	N/A
Case 1. Between \$150K and \$1M	Certification by Prime and Subconsultants (Exhibit 10-K)	No	May be selected for Audit or Review.	If ICR Audit is performed.
Case 2. Between \$1M and \$3.5M	<ul style="list-style-type: none"> • Certification for Prime and Subconsultants (Exhibit 10-Ks) • Cost proposals for Prime and Subconsultants • All other applicable documents listed on Exhibit 10-A 	Yes	May be selected for ICR or Contract Audit, or other Review.	Yes
Case 3. \$3.5M or greater	<ul style="list-style-type: none"> • Certification for Prime and Subconsultants (Exhibit 10-Ks) • Cost proposals for Prime and Subconsultants • All other applicable documents listed on Exhibit 10-A <p style="text-align: center;">AND</p> <p>CPA Audited ICR or cognizant approval.</p>	Yes	May be selected for Review of CPA's workpapers of audited ICR or Contract Audit, or other Review	Yes

FIGURE 10-3 A&E CONSULTANT AUDIT AND REVIEW PROCESS



* NOTE: For A&E consultant contracts of \$1M or more, local agency may begin, but not conclude cost negotiations with the best qualified firm until a Conformance Letter is received from A&I.

10.4 CONSULTANT SELECTION METHODS

Figure 10-4 “*Consultant Selection Flowchart*” shows the three methods normally used in selecting a consultant. They are:

- One-Step RFP;
- One-Step RFQ;
- Two-Step RFQ/RFP.

The method used depends upon the scope of work, the services required, the project’s complexity, and the time available for selection of the consultant.

In addition, there are other methods used in special situations such as noncompetitive procurement and small purchases under \$150,000.

Beginning with Section 10.5 “*Consultant Selection Using the One-Step RFP Method*” each of the selection methods is explained in detail. Regardless of the method used, the local agency shall retain all consultant selection documentation in their project files as required by 49 CFR 18.36(b)(9).

ONE-STEP RFP

The One-Step RFP method may be used for Project-specific contracts when the scope of work is well defined or for Multi-phased contracts where the defined scope of work is divided into phases. Other considerations include when the consultant’s services are highly specialized and there are few qualified consultants.

ONE-STEP RFQ

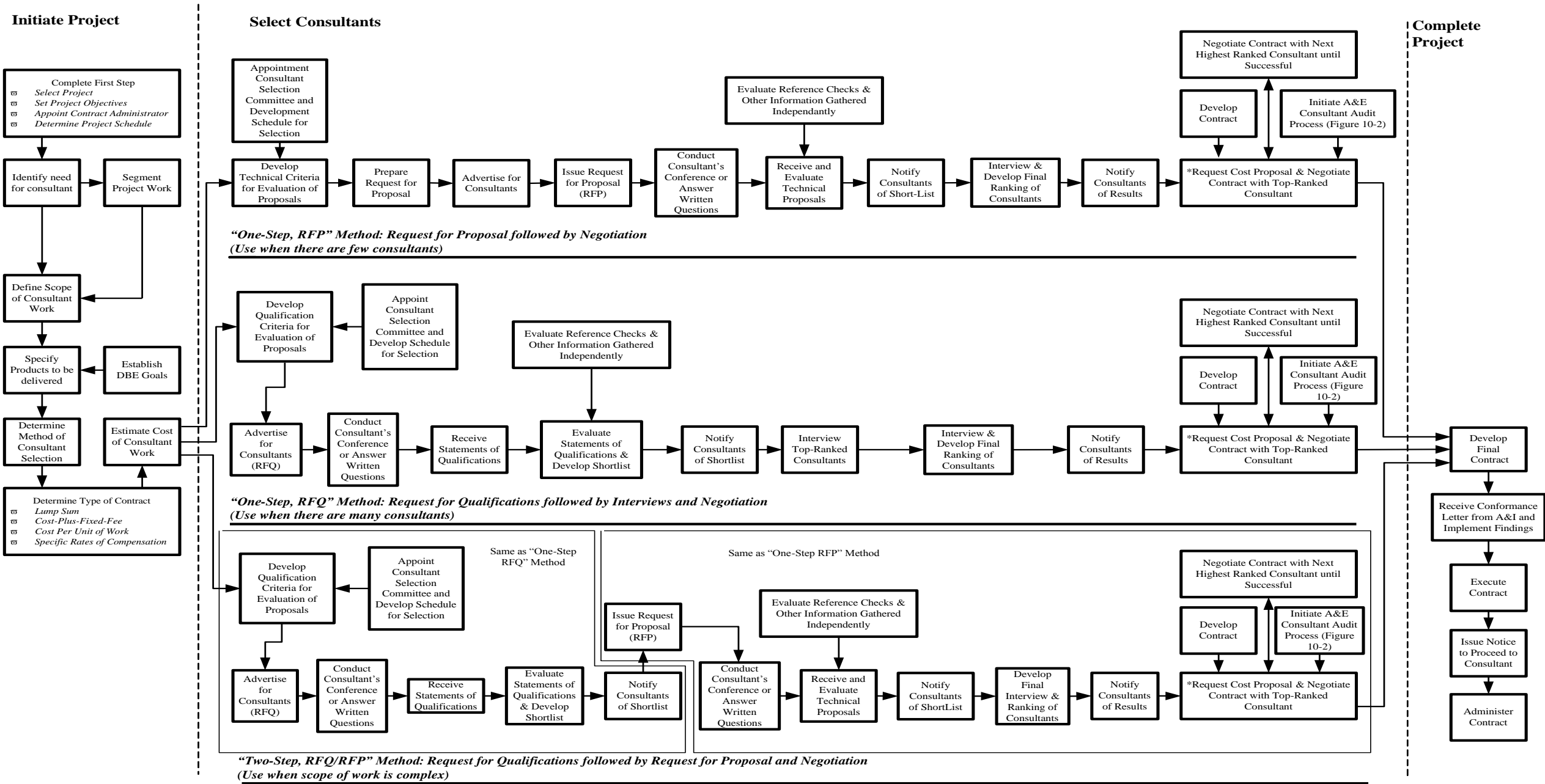
The most common selection process is the One-Step RFQ method. It is used when the requested services are specialized, or the scope of work is defined broadly and may include multiple projects. Typical services are preliminary engineering, surveying, environmental studies, preparation of Plans Specifications and Estimate (PS&E) and environmental documents, or construction management. This method or the two step selection process is used for procurement of “on-call” contract(s).

TWO-STEP (RFQ FOLLOWED BY RFP)

The Two-Step RFQ/RFP method may be used when the scope of work is complex or unusual. This method also may be preferred by local agencies that are inexperienced about negotiations and procedures for establishing compensation. However, the Two-Step RFQ/RFP method is recommended for procurement of multiple “on-call” contracts, or an “on-call” list, through a single solicitation. For more information, refer to description of on-call contract in Section 10.2 “*Identifying & Defining a Need for Consultants*”. This method requires substantially more work and time than the other two methods described above.

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FIGURE 10-4 CONSULTANT SELECTION FLOWCHART



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10.5 CONSULTANT SELECTION USING THE ONE-STEP RFP METHOD

Of the three methods discussed, this one is most easily modified for non-A&E consulting contracts. For non-A&E consulting contracts, a cost proposal may be part of the RFP and the selection criteria. For A&E contracts, the cost proposal is not requested until the consultants have been ranked based upon their submitted technical proposal.

APPOINT CONSULTANT SELECTION COMMITTEE

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews materials submitted by consultants, develops a short list of qualified consultants, and develops a final ranking of the most qualified proposals. Representation on the committee includes the Contract Administrator and subject matter experts from the project's functional area. The members should be familiar with the project/segment to be contracted out and with the local agency standards that will be used in the contract. Participation by a Caltrans district representative is at the option of the agency and subject to availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and all requirements are met.

Local agency Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in Exhibit 10-T "*Panel Member Conflict of Interest & Confidentiality Statement*".

DEVELOP TECHNICAL CRITERIA FOR EVALUATION OF PROPOSALS

The Contract Administrator is responsible for developing the technical criteria, and their relative weights which are used to evaluate and rank the consultant proposals.

The criteria and relative weights must be included in the RFP, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and relative weights during the evaluation will result in the contract costs being ineligible for state or federal reimbursement. Exhibit 10-B "*Suggested Consultant Evaluation Sheet*" is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state.

The local agency should consult with the DLAE before making major changes to the suggested approach.

DEVELOP SCHEDULE FOR CONSULTANT SELECTION

Before the contract is advertised, the Contract Administrator completes a contract procurement schedule including key dates for consultant selection activities. The Contract Administrator should confirm key dates with all selection committee members before completing the schedule.

PREPARE RFP

The information required in a RFP includes the following:

- Description of project;
- Scope of work;
- Schedule of work (including estimated start and end dates of the contract);

- Method of payment, and cost proposal requirements. The cost proposal is submitted in a separate sealed envelope. See Exhibit 10-H “*Sample Cost Proposal*” for sample cost proposal formats;
- Contract audit and review process requirements (see Section 10.3 “*A&E Consultant Audit and Review Process*”);
- Proposal format and required contents;
- Method, criteria and weighting for selection;
- A DBE contract goal is specified (see Exhibit 10-I “*Notice to Proposers DBE Information*”), if a Federal-Aid contract;
- Protest procedures and dispute resolution process per 49 CFR 18.36(b)(12).

The RFP specifies the content of a proposal, the number of copies required, due date, mailing address, and a physical address where the submittals may be hand delivered if different from the mailing address. Two to four weeks is usually allowed between the time the RFP is published and time that proposals must be submitted. More time may be required for complex contracts or projects.

Items typically required in a technical proposal include:

- Work plan (specify what is to be covered);
- Organizational chart;
- Schedule and deadlines;
- Staffing plan;
- Proposed Team—complete for prime consultant and all key subconsultants;
- Key personnel names and classifications—key team members identified in the original proposal/cost proposal shall not change (be different than) in the executed contract;
- Staff resumes;
- Names of consultant’s project manager and the individual authorized to negotiate the contract on behalf of the consulting firm;
- Consultant DBE Commitment document, (see Exhibit 10-O1 “*Consultant Proposal DBE Commitment*”);
- References;

FINANCIAL MANAGEMENT AND ACCOUNTING SYSTEM REQUIREMENTS

The local agency must ensure that consultant contract solicitation and advertising documents (RFPs) clearly specify that contracts shall not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31. The local agency must ensure the selected consultants have adequate financial management systems as required by the applicable federal regulations.

ADVERTISE FOR CONSULTANTS

The solicitation process for consultant services shall be by public advertisement, or by any other public forum or method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of contract. Advertisement of the RFP in a major newspaper of general circulation, technical publications of widespread circulation, professional associations and societies, recognized DBE organizations, web hosting or clearing houses known for posting government contract solicitations such as BidSync, or posting the RFP on the local agency’s or other widely used websites are all acceptable methods of solicitation.

To document website postings, the local agency should retain copies of screen shots displaying the posted “begin/end” dates.

ISSUE/PUBLISH RFP

The local agency shall publish the RFP on line and also issue the RFP to all consultants responding to a newspaper advertisement. The local agency shall keep a record of all consultants that have downloaded a RFP online as well as those receiving an RFP through other means, to ensure that any inquiry responses, addendums, or amendments to the RFP are given to all consultants that received the RFP.

CONDUCT PROPOSER’S CONFERENCE OR ANSWER WRITTEN QUESTIONS

The local agency may allow for clarification of the RFP by inviting submittal of written questions or by conducting a proposer’s conference, or by doing both. The local agency must publish or mail their responses to any written questions to all consultants receiving the RFP. No response should be given to verbal questions. It is important that all competing consultants receive the same information. If a proposer’s conference is to be held, the exact time and place must be specified in the RFP. Attendance at a proposer’s conference normally is not mandatory. However, consultants not attending the conference do not receive notes from the meeting unless they request the notes.

RECEIVE AND EVALUATE TECHNICAL PROPOSALS

The Contract Administrator must verify that each proposal contains all of the forms and other information required by the RFP. If all required information is not provided, a proposal may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of the date stamped envelope or box tops are recommended.

The members of the consultant selection committee must evaluate each proposal according to the technical criteria listed in the RFP. Minimum of three proposals must be received and evaluated.

If only two proposals are received, a justification must be documented to proceed with the procurement. If only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) must be documented. In either case, the re-advertisement of the RFP should be considered as an option.

The committee must also evaluate reference checks and other information gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks or other information may be discussed with the highest ranked qualified consultants at the interviews.

DEVELOP FINAL RANKING AND NOTIFY CONSULTANTS OF RESULTS

The selection committee discusses and documents the strengths and weaknesses of each proposal; interviews the three or more highest ranked consultants (short listed); and develops a final ranking of the highest ranked consultants. All consultants that submitted proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not the highest ranked. Therefore, the selection committee should keep notes as to why a particular consultant

was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective reasons. The consultant should not be compared to others, and should not be provided any information about other consultants during this debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

NEGOTIATE CONTRACT WITH TOP-RANKED CONSULTANT

Cost proposal (for both Prime and all Subconsultant), and contract audit and review documents such as Exhibit 10-Ks “*Consultant Certification of Costs and Financial Management System*” and Exhibit 10-A “*A&E Consultant Audit Request Letter and Checklist*”, whichever applicable (see Section 10.3 “*A&E Consultant Audit and Review Process*”) should be submitted in a separate sealed envelope. Typically, the cost proposals are submitted by the short listed consultants only, at the time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultants with their technical proposal.

The cost proposal for the most qualified consultant will be opened and used to begin negotiations. If agreement cannot be reached, then negotiations proceed to the next most qualified consultant. Each consultant’s cost proposal must remain sealed until negotiations commence with that particular consultant. The goal of negotiations is to agree on a final contract that delivers the services, or products required at a fair and reasonable cost to the local agency. At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals shall be returned to consultants.

The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and a tool for negotiations or terminating unsuccessful negotiations with the most qualified consultant. It can be revised, if needed, for use in negotiations with the next most qualified consultant.

A contract audit and review may be required (see Section 10.3 “*A&E Consultant Audit and Review Process*” in this chapter). The local agency Contract Administrator ensures that all required documentations are provided to Caltrans A&I in a timely fashion, including all documents for a Conformance Review, if applicable. Negotiations may be completed after receipt of the Caltrans A&I Conformance Letter. An indirect cost audit may be performed within the record retention period of the contract.

Items typically negotiated include:

- Work plan;
- Schedule and deadlines (for deliverables and final duration of contract);
- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments, and fees.

The consultant’s ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency.

The local agency and the consultant will agree on the final cost proposal and incorporate into the final contract.

Before executing the consultant contract, the local agency must review the contract to ensure that all state and federal requirements have been met (see Exhibit 10-C “*Consultant Contract Reviewers Checklist*”), and all deficiencies identified in the Conformance Letter have been addressed and resolved, if applicable. The completed

checklist is to be signed by the Contract Administrator and the original retained in the project file, one copy is to be sent to the DLAE (for review of completeness) and filed within 30 days after awarding the contract.

10.6 CONSULTANT SELECTION USING THE ONE-STEP RFQ METHOD

The RFQ method is used when the services being procured are specialized, or the scope of work is defined broadly and may include multiple projects.

APPOINT CONSULTANT SELECTION COMMITTEE

A consultant selection committee with a minimum of three members is appointed at the beginning of the consultant selection process. The committee reviews and scores the materials submitted by consultants in response to the RFQ, develops a short list of qualified consultants, interviews those consultants, and develops a final ranking of the most qualified consultants. Representation on the committee includes the Contract Administrator and subject matter experts from the project's functional area. The members should be familiar with the scope of work to be contracted out and with the local agency standards that will be used in the contract. Participation by a Caltrans district representative is at the option of the local agency and subject to the availability of the DLAE staff. Caltrans participation on the interview panel does not relieve the local agency of its responsibility to ensure that proper procurement procedures are followed and all requirements are met.

The local agency Contract Administrator ensures that all committee members meet the conflict of interest requirements (23 CFR 172) by completing and signing a conflict of interest statement prior to selection process initiation. A sample conflict of interest form is provided in Exhibit 10-T "*Panel Member Conflict of Interest & Confidentiality Statement*".

DEVELOP TECHNICAL CRITERIA FOR EVALUATION OF QUALIFICATIONS

The Contract Administrator is responsible for developing the technical criteria, and their relative weights which are used to evaluate and rank the consultant qualifications. The criteria and relative weights must be included in the RFQ, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and relative weights during the evaluation will result in the contract costs being ineligible for state or federal reimbursement. Exhibit 10-B "*Suggested Consultant Evaluation Sheet*" is a recommended evaluation sheet with criteria and rating points for A&E consultants, where cost is not used as a rating factor. This format is not mandatory, but it is recommended in the interest of developing consistency among the hundreds of agencies and consultants operating in the state. The local agency should consult with the DLAE before making major changes to the suggested approach.

DEVELOP SCHEDULE FOR CONSULTANT SELECTION

Before a contract is advertised, the Contract Administrator completes a contract procurement schedule including key dates for consultant selection activities. The Contract Administrator should confirm target dates with all selection committee members before completing the schedule.

PREPARE RFQ

As a minimum, the RFQ generally includes the following:

- General description of the services or project(s);

- Scope of work;
- Schedule of work (including contract begin and end dates);
- Method of payment, and cost proposal requirements. The cost proposal is submitted in a separate sealed envelope. See Exhibit 10-H “*Sample Cost Proposal*” for sample cost proposal formats;
- Contract audit and review process requirements (see Section 10.3 “*A&E Consultant Audit and Review Process*”);
- Statement of Qualification (SOQ) format and required content to be submitted;
- Method, criteria and relative weights for selection;
- A DBE contract goal is specified (see Exhibit 10-I “*Notice to Proposers DBE Information*”), if a Federal-Aid contract;
- Protest procedures and dispute resolution process per 49 CFR 18.36(b)(12).

The RFQ specifies the content of the SOQ, the number of copies required, due date, mailing address, and a physical address where the submittals may be hand delivered if different from the mailing address. Two to four weeks is usually allowed between the time the RFQ is published and time that SOQs must be submitted. More time may be required for complex contracts or scope of work.

Items typically required in a SOQ include:

- Qualifications of key personnel (including consultant project manager) proposed for the contract. Key team members identified in the original proposal/cost proposal shall not change (be different than) in the executed contract;
- Staff resumes;
- Related projects that key personnel have worked on;
- Qualifications/experience of the firm;
- Organizational chart;
- Forecast or schedule of work;
- Consultant DBE Commitment document, see Exhibit 10-O1 “*Consultant Proposal DBE Commitment*”;
- References.

FINANCIAL MANAGEMENT AND ACCOUNTING SYSTEM REQUIREMENTS

The local agency must ensure that consultant contract solicitation and advertising documents (RFQs) clearly specify that contracts shall not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31. The local agency must ensure the selected consultants have adequate financial management systems as required by the applicable federal regulations.

ADVERTISE FOR CONSULTANTS

The solicitation process for consultant services shall be by public advertisement or any other public forum or method that assures qualified in-State and out-of-State consultant are given a fair opportunity to be considered for award of contract. The RFQ must contain sufficient project work information, so that interested consultants can submit an appropriate SOQ.

Advertisements for a RFQ may take one of two approaches. The most common is an advertisement or publication of the RFQ in a major newspaper of general circulation,

technical publication of widespread circulation, professional associations and societies, recognized DBE organizations, web hosting or clearing houses known for posting contract solicitations such as Bid Sync or posting the RFQ on other widely used websites. To document website postings, the local agency should retain copies of screen shots displaying the posted “begin/end” dates.

In the second approach, the local agency advertises the availability of the RFQ in a major newspaper of general circulation, technical publications of widespread circulation, professional associations and societies, recognized DBE organizations, or through a web hosting or clearing houses known for posting contract solicitations such as BidSync, and requests that interested consultants send a letter of interest to the local agency for the RFQ. The RFQs shall then be sent to those firms who indicated interest in the RFQ. In some cases, it may be desirable to advertise nationwide for a particular project or service. This approach provides a registry for firms who received the RFQ and therefore facilitates the broadcast of any revisions or addenda to the RFQ, if necessary.

ISSUE/PUBLISH RFQ

The local agency shall publish the RFQ on line and also issue the RFQ to all consultants responding to the newspaper advertisement. The local agency shall keep a record of all consultants that have downloaded the RFQ online as well as those receiving it

through other means, to ensure that any inquiry responses, addendums, or amendments to the RFQ are given to all consultants that received the RFQ.

RECEIVE/EVALUATE STATEMENTS OF QUALIFICATIONS AND DEVELOP SHORT LIST

The first step in the evaluation process is to determine that each SOQ contains all forms and other information required by the RFQ. Otherwise, the submittals may be considered nonresponsive and rejected without evaluation. Late submittals, submittals to the wrong location, and submittals with inadequate copies are considered nonresponsive and shall be rejected. Submittal of additional information after the due date shall not be allowed. Documentation of when each proposal was received must be maintained in the project files. Copies of date stamped envelope covers or box tops are recommended.

Minimum of three proposals must be received and evaluated. If only two proposals are received, a justification must be documented to proceed with the procurement. If only one proposal is received, a Non-Competitive process must be justified and a Public Interest Finding (PIF) must be documented. In either case, the re-advertisement of the RFP should be considered as an option.

The consultant selection committee reviews the submitted SOQ according to the published evaluation criteria and weighting factors. The committee makes an independent random check of one or more of the consultant’s references. This check applies to major subconsultants also. The committee establishes a short list of consultants who are considered to be best qualified to perform the contract work. The short list includes enough qualified consultants to ensure that at least three consultants are interviewed.

NOTIFY CONSULTANTS OF SHORT LIST

All consultants that submitted an SOQ must be notified of the results of the review. The notification also identifies those consultants (short list) that will be requested to attend interviews. Most consultants will request information as to why they were not placed on the short list. Therefore, the selection committee should keep notes why a particular consultant was not selected for the short list. When a consultant requests a debriefing, the reasons given for not being selected must be objective reasons. Consultants should

not be compared with each other during the debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

INTERVIEW TOP-RANKED CONSULTANTS

Each consultant to be interviewed is given a copy of the draft of the proposed contract, defining the detailed scope of work, and/or description of required services, and other information. This should be sent with the initial notification of the interview.

Between the time of the notification of the short list and interviews, the local agency may answer any questions concerning the scope of work to be contracted out, if not done earlier during the solicitation. In addition, the local agency may conduct additional reference checks for each consultant to be interviewed. Consultants should submit their questions about the RFQ and receive their answers from the local agency in writing. It is important that all consultants on the short list receive the questions and answers and are given the same information.

The committee should evaluate reference checks and other information that is gathered independently. Reference checks shall be completed and other information gathered before the interviews are conducted. If necessary, the results of the reference checks and other information may be discussed with the consultant at the interview.

Interviews are to be structured and conducted in a formal manner. Each consultant shall be allowed the opportunity to make a presentation if desired; however, a time limit should be specified. Interview questions are prepared in advance.

Two types of questions may be asked:

- Questions that are to be asked of all competing consultants, and
- Questions relating to each specific consultant, based upon the reference checks, and the strengths and weaknesses identified during evaluation of the SOQ

The agency can request competing consultants to bring additional information or examples of their work to the interviews; if the additional information facilitates the interview or evaluation process.

Additional information requested should be kept at a minimum, that is, only information required to select the most qualified consultant for the contract. The selection committee or local agency shall not gather additional information concerning the consultants after the interviews are completed.

DEVELOP FINAL RANKING AND NOTIFY CONSULTANTS OF RESULTS

All consultants interviewed must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not selected as the most qualified. Therefore, the selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective. Consultants should not be compared with each other or provided with information about other consultants during the debriefing.

Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

The next two sections provide guidance when the RFQ is solicited for “specialized” services and additional information is required prior to cost negotiations with consultant.

For on-call contracts, skip the next two sections and begin the Negotiation phase.

CONDUCT SCOPING MEETING

The Contract Administrator meets with the first-ranked consultant’s project manager to review the project, and to ensure that the consultant has a complete understanding of the work that is required. The consultant is shown as much material as is available regarding the project. Any technical questions regarding the project are answered for the consultant.

REQUEST COST PROPOSAL

The first-ranked consultant is asked to provide a cost proposal to perform the work described in the draft contract and discussed at the scoping meeting. The work is to be performed according to the conditions described in the draft contract using the payment method described therein. Alternatively, if time is of the essence and it can be justified, sealed cost proposals may be requested from all of the consultants on the short list.

If the contract involves more than one project, the consultant must provide a separate cost proposal for each project in addition to a summary cost proposal for the total contract. If the contract involves milestones, the consultant must furnish a separate cost proposal for each milestone with a summary cost proposal for the total costs. If the contract involves subconsultants, the prime consultant must include a separate cost proposal for each subconsultant. Each subconsultant’s cost proposal must follow the same format as the prime consultant’s cost proposal.

NEGOTIATE CONTRACT WITH TOP-RANKED CONSULTANT

A cost proposal (for both Prime and all Subconsultants), and contract audit and review documents such as Exhibit 10-Ks “*Consultant Certification of Contract Costs and Financial Management System*” and 10-A, whichever applicable (see Section 10.3 “*A&E Consultant Audit and Review Process*”) will be submitted in a separate sealed envelope. Typically, the cost proposals are submitted by the short listed consultants only, at the time of interview. However, if time is of the essence and it can be justified, or if no interviews are planned, the cost proposal can be requested from all consultants with their statements of qualification.

After the top-ranked consultant submits a sealed cost proposal, the local agency reviews the cost proposal and enters into negotiations. The goal of negotiations is to agree on a final contract that delivers to the local agency the services or products required at a fair and reasonable cost. The independent cost estimate, developed by the local agency in advance of requesting a cost proposal from the top-ranked consultant, is an important basis and tool for negotiations.

Negotiations should commence with the most qualified consultant. If agreement on a fair and reasonable price cannot be reached, negotiations should then be formally terminated. Negotiations then proceed to the next most qualified consultant, and so on. Each consultant’s cost proposal must remain sealed until negotiations commence with that particular consultant. At the completion of successful cost negotiations, all remaining sealed envelopes containing cost proposals shall be returned to consultants.

A contract audit and review may be required (see Section 10.3 “*A&E Consultant Audit and Review Process*” earlier in this chapter). The local agency Contract Administrator is

responsible for the submittal of all required documentations to Caltrans A&I in a timely fashion, including all documents for a Conformance Review, if applicable. Negotiations may be completed after receipt of the Caltrans A&I Conformance Letter. An indirect cost audit may be performed within the record retention period of the contract.

The items typically negotiated include:

- Work plan;
- Staffing plan;
- Schedule (including contract begin and end dates);
- Products to be delivered;
- Classification, wage rates, and experience level of personnel to be assigned;
- Cost items, payments and fee.

The consultant's ICR is not a negotiable item. A lower rate cannot be negotiated by the local agency.

For on-call contracts, typically a price agreement is reached based on a specific rate of compensation for the term of the contract. The subsequent "task orders" (or mini agreements for individual project work) is negotiated based on actual cost plus fee, or lump sum, which is derived from the wage rates agreed upon earlier for the on-call contract.

Before executing the consultant contract, the local agency must review the contract to ensure that all state and federal requirements have been met (see Exhibit 10-C "*Consultant Contract Reviewers Checklist*"), and all deficiencies identified in the Conformance Letter have been addressed and resolved, if applicable. The completed checklist is to be signed by the Contract Administrator and the original retained in the project file, one copy is to be sent to the DLAE (for review of completeness) and filing within 30 days after awarding the contract.

10.7 CONSULTANT SELECTION USING THE TWO-STEP RFQ/RFP METHOD

COMBINED RFQ AND RFP

Selecting consultants using the Two-Step RFQ/RFP method requires combining certain steps from each of the other two methods previously described. The consultants are rated based upon both their qualifications and their technical proposals.

The initial steps in this method (up to the development and notification of the short list) are the same as the steps followed when using the One-Step RFQ method. At this point, the consultants from the short list are issued an RFP. The remaining steps are the same as the later steps followed in the One-Step RFP method. The combination of these steps is indicated in Figure 10-4 "*Consultant Selection Flowchart*".

Because it is a combination of the One-Step RFQ and One-Step RFP methods, this method of consultant selection requires more work and time than the other two methods. Consequently, the combined RFQ/RFP method is recommended for use only when the scope of work is very complex or unusual.

The Two-Step RFQ/RFP is also well suited for procuring multiple "on-call" contracts through single solicitation. The outcome of the first step - RFQ will be multiple contracts, or an on-call list of consultants with cost/price agreements. The subsequent project work will be procured thru individual competition or mini-RFPs amongst the on-call consultants. The mini-RFP or the task order will be negotiated with first ranked firm

from each competition. The task order (mini-RFP) cost will be based on wage rates established in the master on-call contract, and the time and deliverable requirements in the task order.

10.8 COMPLETING THE PROJECT

DEVELOP THE FINAL CONTRACT

The Contract Administrator requests a revised cost proposal from the consultant after: (1) negotiations have been completed, (2) the local agency and consultant have agreed to a fair and reasonable price, and (3) a Conformance Letter, if applicable, is released by Caltrans A&I and identified issues have been resolved. The Contract Administrator should review the revised cost proposal to ensure that all the items and changes discussed during negotiations were included. This revised cost proposal then becomes the final cost proposal, is attached to and made a part of the consultant contract. For informational purposes, sample contract language and format have been included as Exhibit 10-R “*A&E Sample Contract Language*”.

The Contract Administrator has responsibility to ensure that the final negotiated contract is complete and has verified that all required backup documents have been provided. Copies of the contract are sent to the consultant for signature first.

REVIEW AND APPROVAL OF CONTRACTS

Proposed contracts for consultant services (including subcontracted work) exceeding \$150,000, must be reviewed by the local agency to verify that:

- Compensation is fair and reasonable and includes prevailing wage rates, if applicable;
- Work activities and schedules are consistent with the nature and scope of the project;
- DBE goal is included if there are subcontracting opportunities and available DBE firms;
- Exhibit 10-Ks “*Consultant Certification of Contract Costs and Financial Management System*” (for Prime and Subs), and Exhibit 10-A “*A&E Consultant Audit Request Letter and Checklist*” and all supporting documents, if applicable, have been submitted to Caltrans A&I;
- If applicable, the issues identified in the Conformance Letter have been addressed;
- Contract modification language entitling the local agency to retroactively adjust ICRs within the document retention period has been included in the contract (see [Exhibit 10-R A&E Sample Contract Language](#), Article IX, paragraph D).

Exhibit 10-C “*Consultant Contract Reviewers Checklist*” must be used to ensure that required documentation has been provided. A cost proposal (see Exhibit 10-H “*Sample Cost Proposal*”), must include the costs of materials, direct salaries, payroll additions, other direct costs, indirect costs, fees, and backup calculations.

Before approving a contract for consulting services, the Contract Administrator must be satisfied that the consultant’s organization:

- Is qualified to perform the services required;
- Is in a position, considering other work commitments, to provide competent and experienced personnel to perform the services in the time allowed;

- Is fully aware of all applicable state and federal laws including implementing regulations, design standards, specifications, previous commitments that must be incorporated into the design of the project, and administrative controls including those of Caltrans and FHWA.
- Has an adequate financial management system as required by the applicable federal regulations.

The contract must provide for a defined level of acceptability and a statement to the effect that the consultant may be required to modify its work as necessary and to meet that level of acceptability as defined in the contract. The contract shall provide for local agency reviews at appropriate stages during performance of the work, to determine if any changes or other actions are warranted.

The contract shall also provide that the consultant establish a working office at a place acceptable to the local agency. The contract shall provide that the consultant and subconsultants maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred. Such materials must be available for inspection and audit by federal, State, and local agency authorized representatives; and copies thereof shall be furnished, if requested.

Following final settlement of the contract accounts with the FHWA or State, such records and documents may be archived at the option of the local agency, but in any event shall be retained for a three-year period after processing of the final voucher by the FHWA or State.

RETENTION CLAUSES

At the option of the local agency, a retention clause may be included in the consultant contract. The usual retained amount is five percent; appropriate securities on deposit may be substituted for the retention. A retention clause in the consultant contract is recommended (see Exhibit 10-R “*A&E Sample Contract Language*”, Article XXXI).

REVIEW OF LOCAL AGENCY ACTIONS

Issues identified in the Conformance Letter must be resolved before the local agency executes the contract.

Federal-Aid or state reimbursement is contingent on meeting the state or federal requirements and can be withdrawn, if these procedures are not followed and documented. The local agency files are to be maintained in a manner to facilitate future FHWA or Caltrans process reviews and audits.

As specified in the “*Review and Approval of Contracts*” above, the Contract Administrator must review the proposed consultant contract before execution. Exhibit 10-C “*Consultant Contract Reviewers Checklist*” is to be completed and signed. A copy shall be sent to the DLAE within 30 days of contract award. This signed document must be retained in the local agency project files.

EXECUTE CONTRACT AND ISSUE NOTICE TO PROCEED TO CONSULTANT

The Contract Administrator sends the consultant a fully executed copy of the contract with an original signature and issues a notice to proceed. Funds may not be used to reimburse the agency for any work or costs incurred before the “Authorization to Proceed” is issued, or for consultant costs incurred prior to the execution of the consultant contract. Local agency consultant selection and contract execution costs may be reimbursable.

For on-call contracts, a fully executed copy of the contract with original signatures will be sent to the consultant. Each subsequent “task order” (for individual projects) will be accompanied with a copy of the signed task order and a Notice to Proceed, once it is negotiated and approved.

ADMINISTER THE CONTRACT

Project work begins as specified in the contract after the notice to proceed is issued to the consultant. Thereafter, the local agency manages and administers the contract to ensure that a complete and acceptable product is received on time, within standards, and within budget and terms of the contract.

Contract administration activities help to ensure that contractual obligations are completed satisfactorily. Generally, these activities include:

- Monitoring project progress and compliance with contract requirements;
- Receiving, reviewing and assessing reports, plans and other required products/deliverables;
- Receiving and reviewing state prevailing wages; (see Department of Industrial Relations websites below).
DIR FAQ website: http://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html
DIR Wage Determination website:
<http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>
- Reviewing invoices to ensure costs claimed are in accordance to the method of payment and contract cost proposal, approving payments;
- If new consultant personnel are added or substituted, labor rates must be verified prior to approving invoices;
- Record keeping and reporting;
- Controlling costs;
- Identifying changes to the scope of work and preparation of amendments (must ensure that any changes to the scope is within the constraints of the original RFP/RFQ);
- Completing the consultant performance evaluations (see Exhibit 10-S “*Consultant Performance Evaluation*”).

SUBSTITUTION OF CONSULTANT PERSONNEL AND SUBCONSULTANTS

After contract execution the consultant should not substitute key personnel (project manager and others listed by name in the cost proposal) or subconsultants without prior written approval from the local agency. To do so can result in the costs being ineligible for state or federal reimbursement. The consultant must request and justify the need for the substitution and obtain approval from the local agency prior to use of a different subconsultant on the contract. The proposed substituted person must be as qualified as the original, and at the same or lower cost.

For engineering types of consultant contracts, the consultant’s project manager must be a registered engineer in the State of California.

INVOICING (OR PROGRESS PAYMENTS)

The frequency and format of the invoices/progress payments are to be determined by the contract. Program Supplement Agreements (see Chapter 3 “*Agreements*”) need to have been prepared prior to any payments being requested. Payments to the consultant

are to be in arrears. In other words, the consultant must have actually incurred and paid the costs before invoicing the local agency.

For state or federal reimbursement of consultant costs on a project, the local agency must submit the following to the DLAE, for each consultant or consulting firm used on the project (failure to do so will result in the consultant's invoices for reimbursement being returned to the agency unprocessed):

- Copy of Executed Consultant contract;
- Exhibit 10-C “*Consultant Contract Reviewers Checklist*”;
- Exhibit 10-O1 “*Consultant Proposal DBE Commitment*” (federally funded projects only);
- Exhibit 10-O2 “*Consultant Contract DBE Information*” (federally funded projects only);

DLAE must confirm that the local agency has submitted copies of Exhibit 10-K “*Consultant Certification of Contract Costs and Financial Management System*” (for Prime and Subconsultants) to Caltrans A&I.

Invoices should include the following:

- Prepared on the consultant's letterhead;
- Signed by the consultant's project manager;
- Have a unique invoice number;
- Appropriate documentation attached;
- If the contract involved milestones, each milestone should be invoiced separately;
- If the contract involved subconsultants, a separate invoice for each subconsultant should be attached in the same format as the prime consultant's invoice and should be included in the summary of the prime consultant's invoice.

The following are requirements associated with each invoice that the local agency should include:

- A summary of the reimbursements to-date and a summary of the funds remaining in the contract. This should be compared to the local agency's own record of reimbursements to-date and a summary of the funds remaining in the contract.
- A summary of all payments to-date and funds remaining in the contract for each subconsultant.

The local agency is to follow the procedures given in Chapter 5 “*Invoicing*”, to obtain reimbursement of state or federal funds.

CONTRACT AMENDMENTS

Contract amendments are required to modify the terms of the original contract for changes such as extra time, added work, or increased costs. Only work within the original advertised scope of services shall be added by amendment to the contract. The addition of work outside the original advertised scope will make that work ineligible for state or federal reimbursement (see Q&As):

http://www.fhwa.dot.gov/programadmin/172qa_01.cfm.

There is no prescribed format for contract amendments. They may take the form of letter-type agreements meeting the legal requirements of the local agency, clearly outlining the changes and containing a mutually agreed upon method of compensation. Such agreements must conform to the requirements of this manual with regard to payment.

A consultant contract may be amended at any time prior to the expiration date of the original contract. The most common amendment is to extend the ending date of the contract. All contract amendments must be fully executed before the ending date of the contract. Failure to amend a contract prior to the ending date will make the subsequent costs ineligible for state and federal reimbursement.

For on-call consultant contracts, the amendment is restricted to the work/task order that has already been started by the consultant and can not include any new work.

All contract amendments must be in writing and fully executed by the consultant and local agency before reimbursable work begins on the amendment. If an emergency exists of such magnitude that a delay cannot be tolerated, the local agency and the consultant may agree on an amendment initiating the work, so that reimbursable work may begin. The initiating amendment is then followed by a final amendment once the full scope of the emergency work is known and agreed to by both parties. In both cases, sufficient funding should be included in the amendments to pay for all work to be performed by the consultant. The final amendment must be executed as quickly as possible. Failure to fully comply with this section may result in the loss of local agency funding.

If an amendment increases the contract to over \$1M then the procedures in either Case 2 or Case 3 under Section 10.3 “*A&E Consultant Audit and Review Process*” of this chapter, shall apply to the entire contract, and must be completed prior to execution of the contract amendment.

PERFORMANCE EVALUATION

Pursuant to 23 CFR §172.9(a) agencies are required to prepare an evaluation of the consultant when the project has been completed. The Contract Administrator evaluates the consultant’s performance after the consultant’s final report has been submitted, and the Contract Administrator has conducted a detailed evaluation with the consultant’s project manager. See Exhibit 10-S “*Consultant Performance Evaluation*” for a suggested format for use by the local agency.

PROJECT RECORDS

Federal-Aid Highway Program funding recipients and sub-recipients must maintain adequate and readily accessible project performance and financial records, supporting documents, and other records considered pertinent to the grant agreement and in compliance with federal laws and regulations (e.g. 23 USC 112; 40 USC 1101-1104, 23 CFR 172, 48 CFR 31, and 49 CFR 18). These records shall be maintained for a minimum of three years following issuance of the final voucher from FHWA (forwarded by Caltrans) and the closure of all other pending matters (49 CFR 18.42(b)).

For audit purposes, project records and documentation shall be kept for three years after payment of the final state or federal voucher. Among the records to be retained are as follows (not an all inclusive list):

- Copies of RFPs and RFQs, changes, addendums, etc. and bidder’s list;
- Documentation of DBE participation (including Exhibit 10-O1 “*Consultant Proposal DBE Commitment*” and 10-O2 “*Consultant Contract DBE Information*”);
- Solicitation and advertisement records;
- Identification of selection committee members;
- Record of receiving proposals, statement of qualifications;

- Evaluation and ranking records such as original score sheets from all panel members, short list questions and other documentation (see Exhibit 10-B “*Suggested Consultant Evaluation Sheet*”);
- Independent cost estimate (prepared in advance of receipt of RFPs and RFQs);
- Record of negotiations (to include a separate negotiations of profit in accordance with federal guidelines);
- Conformance and Cognizant Agency Letters, when applicable;
- CPA-audited ICR Audit Report or Approved State DOT Cognizant ICR Letter, if any;
- Consultant Certification of Costs and Financial Management (Exhibit 10-K “*Consultant Certification of Contract Costs and Financial Management System*”) for contracts over \$150,000;
- Conformance Review Letter from A&I, if applicable. Document the resolution of deficiencies that were identified in the conformance letter;
- A&E Consultant Audit Request Letter and Checklist (Exhibit 10-A “*A&E Consultant Audit Request Letter and Checklist*”) for contracts over \$1,000,000, and all supporting documentations;
- Executed consultant contracts, cost proposals and amendments (see Exhibit 10-R “*A&E Sample Contract Language*” and Exhibit 10-H “*Sample Cost Proposal*”);
- Contract oversight and progress meeting documents;
- Progress and final payments, and supporting documentation;
- Performance evaluation (see Exhibit 10-S “*Consultant Performance Evaluation*”);
- Consultant contract checklists (see Exhibit 10-C “*Consultant Contract Reviewers Checklist*”);
- Accounting records documenting compliance with State and federal administrative requirements;
- Certifications and Conflict of Interest forms (Exhibit 10-T “*Panel Member Conflict of Interest & Confidentiality Statement*”, Exhibit 10-U “*Consultant in Management Position Conflict of Interest and Confidentiality Statement*” and Exhibit 10-Q “*Disclosure of Lobbying Activities*”, as appropriate).

10.9 MISCELLANEOUS CONSIDERATIONS

ENGINEERING SERVICES UNDER \$150,000

The procurement of consultant services by Small Purchase Procedures is in accordance with 23 CFR §172.5(a)(2) modified by FHWA Memorandum dated June 26, 1996, and 49 CFR 18.36(d).

Local agencies should be fully aware that consultant services costing in aggregate no more than \$150,000 per contract may be obtained through a relatively simple and informal method of procurement. This informal method must be sound and appropriate for the consulting services procured and the project files must contain justification for the selection. The method of procurement shall be an open and competitive process in selecting consultants and should consider a minimum of three different consultants whenever possible. The Brooks Act and the consultant audit process described in Section 10.3 “*A&E Consultant Audit and Review Process*” of this Chapter do not apply to consultant service contracts under \$150,000.

Although this method of procurement is informal, it must still comply with Sections 10.1 “General”, 10.2 “Identifying & Defining a Need for Consultants”, 10.8 “Completing the Project” and 10.9 “Miscellaneous Considerations”, of this Chapter.

Project splitting should not be used to take advantage of the small purchase procedure in order to circumvent the Brooks Act.

Summary of Required/Non Required Activities for Small Purchase Procedure

Required	Not Required
<ul style="list-style-type: none"> • Competitive process (collect three bids) • Conflict of interest determination • Assigned Contract Administrator • Defined scope of work/schedule of deliverables/start and end dates for contract • Defined deliverables/Prime and Subconsultant responsibilities • DBE goal for contract; Exhibits 10-O1, 10-O2 • Cost estimate prior to receiving bids • Best method of payment determination • Contract provisions/clauses • Evaluation of consultant, justification of selection • Contract management responsibilities 	<ul style="list-style-type: none"> • No RFP/RFQ • No Selection/Evaluation Panel • No evaluation criteria disclosure requirements • No record of costs/profit negotiations • No audit and review requirement of contract (no Exhibit 10-K)

Price or rate quotation may be considered in the selection of A&E consultants on contracts below \$150,000 and must be documented in the project files. Qualified small business firms shall be considered for selection on Federal-Aid and state reimbursed contracts. Additionally, on Federal-Aid contracts, qualified DBE firms shall be considered for selection, and the appropriate federal contract language shall be included.

The full amount of any contract modification or amendment that would cause the total contract amount to exceed the federal simplified acquisition threshold (currently established at \$150,000) would be ineligible for federal funding. Also, FHWA reserves the right to withdraw all Federal-Aid funding from a contract if it is modified or amended above the applicable established simplified acquisition threshold.

NONCOMPETITIVE NEGOTIATED CONTRACTS (SOLE-SOURCE)

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals (49 CFR Part 18.36).

FHWA considers these types of contracts as “Sole Source” contracts and should be used only in very limited circumstances. A Public Interest Finding prepared by the local agency and approved by Caltrans is required before establishing these services (23 CFR 172.5; also see Exhibit 12-F “Request for Approval of Cost-Effectiveness/Public Interest Finding”).

Conditions under which noncompetitive negotiated contracts may be acceptable include:

- Only one organization is qualified to do the work;
- An emergency exists of such magnitude that cannot permit delay;
- Competition is determined to be inadequate after solicitation of a number of sources.

The local agency shall:

- Follow its defined process for noncompetitive negotiation;
- Develop an adequate scope of work, evaluation factors, and cost estimate before solicitation;
- Conduct negotiations to ensure a fair and reasonable cost.

The local agency must carefully document details of the special conditions, obtain Caltrans approval on a PIF and retain all documents in the project files for future Caltrans' or FHWA's review.

A PIF (see Exhibit 12-F "*Request for Approval of Cost-Effectiveness/Public Interest Finding*") is not required for a local agency to be reimbursed for contract administration activities associated with non-infrastructure type projects such as many Safe Routes to School or Transportation Alternatives Program projects. However, an indirect cost allocation plan must be approved in order to be reimbursed for this work (see <http://www.fhwa.dot.gov/legregs/directives/policy/indirectcost.htm>).

PERSONAL SERVICES CONTRACTS

A personal services contract is characterized by the employer-employee relationship created between the local agency and the contract personnel who essentially perform similar duties as the employees. When personal engineering services less than \$150,000 or non-engineering consultant or vendor services for non-infrastructure programs are needed and state or federal reimbursement will be sought; these services may be obtained through Small Purchase Procedures up to a limit of \$150,000 each.

The \$150,000 is a cumulative limit for services provided by any individual consultant or consulting firm. Such services must be under the direction and control of a full-time employee of the local agency in responsible charge. Compensation for construction engineering services should be based on actual costs incurred, plus a fixed fee, or in the case of individual compensation on an agreed-upon hourly or daily rate. Lump sum payments should not be used for construction engineering services.

For personal service contracts, the following information must be documented by the local agency and retained in the project files:

- Explanation of the services needed, and why they cannot be provided by the local agency;
- Name and qualification of the consultant, who provided the services;
- Documentation of the fees showing how the fee was calculated, and that it is reasonable by comparative standards;
- Any other records needed to show compliance with Federal-Aid program regulations.

RETAINING A CONSULTANT AS AN AGENCY ENGINEER OR IN MANAGEMENT ROLE

A local agency may retain qualified consultants on its staff in professional capacities such as agency consultant engineers, architects, or public agency officials in a management role such as City Engineer (or equivalent). The agency consultants can be an individual or a firm providing professional or management services.

The use of a consultant in a management role should be limited to unique or very unusual situations. These situations require a thorough justification as to why the local agency cannot perform the management. Consultants used in management roles must be selected using the same procedures as those for other consultants specified in this chapter.

Eligibility for state or federal reimbursement for local agency engineering (or equivalent) services requires the following:

- Compliance with the selection procedures specified in this chapter;
- Existence of a contract between the local agency and the consultant specifying the local agency engineering services to be performed;
- Written designation by the local agency of the responsibilities and authority of the consultant as an agency engineer;
- Completion by the consultant designated as an agency engineer of the conflict of interest for public agency officials “Form 700” as required by State law;
- For a state funded or Federal-Aid project, completion of Exhibit 10-T “*Panel Member Conflict of Interest & Confidentiality Statement*” by all members (both consultants and employees) prior to participating in the A&E Selection Panel pertaining to the specific selection process and the firms being considered;
- For a state funded or Federal-Aid project, a local agency consultant in a management role shall not:
 - Participate in, or exercise authority over the A&E selection process, if that consultant’s firm is one of the proposing firms, or subconsultant to a proposing firm;
 - Participate in, or exercise authority over management of work performed by the consultant’s firm, or to a consultant’s firm of which the local agency consultant firm is a subconsultant. This would include, but not be limited to, managing or directing the work, approving changes in the schedule, scope, or deliverables; and approving invoices.
 - Apply for or receive reimbursement of Federal-Aid funds for the local agency’s Federal-Aid project if either of the foregoing has occurred. However reimbursement for the construction contract portion of the project will still be allowed provided all other Federal-Aid requirements have been met.
 - Where benefiting more than a single Federal-Aid project, allocability of consultant contract costs for services related to a management role shall be distributed consistent with the cost principles applicable to the contracting agency in 49 CFR 18.22.
- For a state funded or Federal-Aid project, completion of Exhibit 10-U “*Consultant in Management Position Conflict of Interest and Confidentiality Statement*” by all consultant engineering staff in management positions that exercise authority over the A&E selection panel pertaining to the specific selection process and the firms being considered.
- A completed Exhibit 10-U “*Consultant in Management Position Conflict of Interest and Confidentiality Statement*” form shall be submitted to the DLAE by the local agency concurrently with submitting the request for the funding authorization of an A&E contract which will contain state or federal funds.
- Selection of consultants for A&E management positions shall be by the use of qualification based selection procedures on an open and competitive basis resulting in a contract with defined beginning and ending dates not to exceed five years.

All consultants acting in a management role must complete Exhibit 10-U “*Consultant in Management Position Conflict of Interest and Confidentiality Statement*” and retain it in the local agency files.

If engineering services for a project are within the scope of the services described in the retained consultant's contract, these services may be performed by the person or firm designated as an agency engineer. If the services are not within the scope, eligibility for state or federal reimbursement for these services require a new consultant contract to be developed using the selection procedures in this chapter. Retained consultants involved in the preparation of the RFP or RFQ shall not be considered in the selection of consultants for the resulting project specific work.

When engineering or architectural consultants are procured with Federal-Aid funds, the local agency (subgrantee) shall fully comply with the following:

- Subparagraphs of 49 CFR §18.36(b)(2) "...maintain a contract administration system...."; and (3) "...maintain a written code of standards.... No employee, officer or agent of the ...subgrantee shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved...."
- Subparagraph of 23 CFR §172.9(d) "Consultant in management roles," requires that if a local agency has or intends to have a consultant in a management role (except as the designated public official, City Engineer or equivalent, as provided for under the terms of the local agency contract), the local agency shall receive approval from Caltrans. In addition, any Federal-Aid projects designated as "High Profile" projects may also need approval from FHWA.
- Liability insurance should normally be required from the consultant (errors and omissions, etc.).

CONSTRUCTION ENGINEERING SERVICES

Under Federal-Aid regulations and state policy, the primary responsibility for general supervision of construction must remain with the local agency. The local agency must also ensure that the work is performed in accordance with the approved plans and specifications, by employing or retaining as a consultant a registered engineer for construction engineering services on the project.

All construction engineering activities performed by a consultant must be under the overall supervision of a full-time employee of the agency. These activities may include preparation of contract change orders, construction surveys, foundation investigations, measurement, and computation of quantities, testing of construction materials, checking of shop drawings, preparation of estimates, reports, and other inspection activities necessary to ensure that the construction is being performed in accordance with the plans and specifications. The construction engineering consultant's contract defines the relative authorities and responsibilities of the full-time employee of the local agency in charge of the project and the consultant's construction engineering staff.

If a technical inspection consultant is to provide professional assistance to the local agency, a formal consultant contract must be executed which follows this chapter's requirements. The contract shall provide for reviews at appropriate stages during performance of the work to determine if any changes or other actions are warranted. These reviews are to be made by the local agency.

10.10 REFERENCES

- [23 CFR, Part 172](#) – Administration of Engineering and Design Related Service Contracts

- [40 USC, Section 1104](#) – Brooks Act
- [41 CFR](#) – Public Contracts and Property Management
- [41 USC](#) – Public contracts
- 23 USC – Letting of Contracts
- [48 CFR, Chapter 1, Part 15.404](#)
- [48 CFR, Chapter 1, Part 31](#)
- [Title 48, Part 16 – Types of Contracts](#)
- [48 CFR 27, Subpart 27.3](#) – Patent Rights under Government Contracts
- [48 CFR 31.201-3](#)
- [48 CFR, Chapter 99 – Cost Accounting Standards, Subpart 9900](#)
- [49 CFR, Part 18](#)
- [49 CFR, Part 26](#) – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs
- [American Association of State Highway and Transportation Officials \(AASHTO\) Uniform Audit and Accounting Guide](#)
- [Caltrans Division of Procurement and Contracts Website](#)
- [California Labor Code, Section 1775](#)
- [Government Auditing Standards \(GAS\) issued by the United States Government Accountability Office](#)
- [Government Code Sections 4525 through 4529.5](#)
- [OMB Circular A-110](#) – Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- [Standard Environmental Reference \(SER\)](#)